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8 **STATE WATER RESOURCES CONTROL BOARD**
9 **FOR THE STATE OF CALIFORNIA**

10 In the Matter of the Petition of

Case No.

11 EQUILON ENTERPRISES LLC dba SHELL
12 OIL PRODUCTS US

**PETITION FOR REVIEW AND
REQUEST FOR HEARING**

13 Request for Technical Report, California
Regional Water Quality Control Board, Los
14 Angeles Region

15 California Water Code § 13267

16
17 Equilon Enterprises LLC dba Shell Oil Products US ("Equilon") hereby files this Petition
18 for Review and Request for Hearing, along with the Declaration of Edward E. Freed and a
19 Request for Stay. Equilon alleges as follows:

20 1. Equilon's mailing address is 20945 South Wilmington Avenue, Carson,
21 California 90810. On May 8, 2008, the California Regional Water Quality Control Board, Los
22 Angeles region (the "Regional Board") issued an Order pursuant to Water Code § 13267
23 directing Equilon to conduct an environmental investigation at the former Kast Property located
24 in Carson, California and formerly owned by Shell Oil Company.^{1 2} On October 15, 2009, the
25

26 ¹ A copy of the Water Board's May 8, 2008 Order to Conduct an Environmental
27 Investigation is attached as Exhibit A. Except as otherwise indicated, all statutory references are
to the Water Code.

28 ² A map showing the outline of the former Kast Property is attached as Exhibit B. This
site currently is occupied by approximately 285 single-family residences. (Freed Decl., ¶ 3.)

1 Regional Board issued an order pursuant to Section 13304 requiring the submission of an Interim
2 Remedial Action Plan (the "Request for IRAP"). On November 19, 2009, the Regional Board
3 issued a second order pursuant to Section 13304 approving the Interim Remedial Action Plan
4 submitted by Equilon on November 4, 2009. These are the only orders issued by the Regional
5 Board pursuant to Section 13304 regarding this matter to date.

6 2. Equilon seeks review of a requirement contained in the Regional Board's
7 Approval of Work Plan for Offsite Shallow Soil and Soil Vapor Characterization at the
8 Wilmington Middle School, which was issued by the Executive Officer of the Regional Board on
9 November 24, 2009 (the "13267 Letter").³ In the 13267 Letter, the Regional Board approved
10 Equilon's November 10, 2009 work plan for conducting shallow soil and soil vapor testing at
11 Wilmington Middle School (the "Work Plan").⁴ The purpose of the Work Plan is to conduct an
12 environmental investigation at Wilmington Middle School and determine whether any
13 environmental impacts present at the former Kast Property might extend to the school, which is
14 located west of the former Kast Property and across Lomita Boulevard.⁵ (Freed Decl., ¶ 11.)

15 3. While the Regional Board approved Equilon's Work Plan in its 13267 Letter, it
16 conditioned such approval on certain new requirements, including a requirement that Equilon
17 "conduct additional soil and soil vapor sampling along East Lomita Boulevard to enable a
18 complete assessment of the subsurface pathway between the footprints of the former Kast
19 Property Tank Farm and the Wilmington Middle School site." (Exh. E at p. 2.) As with the
20 other work required in the 13267 Letter, the results from the soil and soil vapor sampling along
21 East Lomita Boulevard must be submitted to the Regional Board by February 15, 2010. (Freed
22 Decl., ¶ 13.)

23 4. This Petition is filed pursuant to Section 13320 of the Water Code, which
24 authorizes any aggrieved person to petition the State Water Resources Control Board (the "State

25 _____
26 ³ A copy of the 13267 Letter is attached as Exhibit E.

27 ⁴ A copy of the Work Plan, which was prepared by URS Corporation, is attached as
28 Exhibit D.

⁵ A copy of the October 13, 2009 Request for Work Plan is attached as Exhibit C.

Board”) to review any action (or failure to act) by a regional board. *See* Water Code § 13223 (actions of the regional board shall include actions by its executive officer pursuant to powers and duties delegated to her by the regional board).

5. Equilon challenges the additional condition contained in the 13267 Letter requiring soil and soil vapor sampling along East Lomita Boulevard on the following three grounds.

6. *First*, sampling in the relevant portion of East Lomita Boulevard is not technically or logistically feasible given the presence of the following local conditions.

- **Ongoing Sewer Construction.** The Los Angeles County Sanitation District (the “LACSD”) currently is replacing the sewer main running beneath East Lomita Boulevard. (Freed Decl., ¶ 15.) Based on discussions with the LACSD, its work involves a phased excavation of the soil beneath certain lanes of East Lomita Boulevard, removal of sections of the old sewer main, installation of a new sewer main, connection to local sewer lines (requiring further excavation), installation of new clean fill, and repaving of the road surface. (*Id.*) Currently, the work is located in the portion of East Lomita Boulevard running from west of Main Street to Avalon Boulevard, and includes the specific portion lying between the former Kast Property and Wilmington Middle School (from Bayview Avenue to Neptune Avenue) where Equilon is required to conduct soil and soil vapor testing pursuant to the 13267 Letter. (*Id.*; see also Exh. D, Figure 1 (map showing the relative locations of the former Kast Property and Wilmington Middle School).) It is infeasible for Equilon to conduct the additional testing while the sewer construction in that area is ongoing, due to safety and liability concerns which would arise from doing both projects simultaneously in the same area. (Freed Decl., ¶ 16.) Even if the additional soil and soil vapor testing were possible while the sewer construction is taking place, it likely would create an additional impact on the east- and west-bound traffic on East Lomita Boulevard, which already has been compressed from five lanes to two lanes to accommodate the LACSD’s

1 sewer main work. (*Id.*, ¶ 15.) For this reason, it is unlikely that the City would
2 grant Equilon authorization to conduct the testing in time for the February 15,
3 2010 reporting deadline. (*Id.*, ¶ 15.)

- 4 • **Ongoing Unrelated Environmental Activity.** In addition, ongoing
5 environmental activity located in and near the portion of Lomita Boulevard lying
6 between the former Kast Property and the Wilmington Middle School makes the
7 testing required in the 13267 Letter infeasible. (Freed Decl., ¶ 17.) This includes
8 the presence of groundwater or soil vapor extraction wells in East Lomita
9 Boulevard between Neptune Avenue and Gulf Avenue. (*Id.*) Equilon is
10 attempting to determine the identity of the owner or operator of these wells and to
11 determine their construction and purpose, but has not yet been able to complete
12 this inquiry. (*Id.*) In addition, the State Board's Geotracker site shows three
13 separate open matters before the Regional Board relating to Blue Jay Land
14 Enterprises, Inc. in the area along East Lomita Boulevard near Bayview and
15 Neptune Avenues. (*Id.*, ¶ 18 and Exh. F.) Given the need to coordinate work
16 with any already-existing environmental activity in the area, it is not technically
17 advisable to undertake the additional sampling in East Lomita Boulevard required
18 in the 13267 Letter until the extent and nature of the existing environmental
19 activity can be determined. (*Id.*, ¶ 19.)

- 20 • **Underground Utilities and Petroleum Pipelines.** Any soil and soil vapor testing
21 also would be complicated by the presence of the numerous utilities and
22 petroleum pipelines running beneath East Lomita Boulevard.⁶ (Freed Decl., ¶ 20.)
23 Because these utilities and pipelines occupy a significant portion of the area
24 beneath East Lomita Boulevard, and given the presence of overhead utilities in the
25 area, it will be difficult to determine suitable locations for soil borings, and this
26 will increase the amount of time required to conduct this additional testing. (*Id.*)

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28 ⁶ A map showing the known utilities and pipelines running beneath Lomita Boulevard is
attached as Exhibit G.

1 7. *Second*, the requirement for additional sampling in East Lomita Boulevard
2 violates Section 13267(b), which permits the Regional Board to require a technical report *only* if
3 “[t]he burden, including costs, of these reports ... bear[s] a reasonable relationship to the need
4 for the report and the benefits to be obtained from the reports.” Water Code § 13267(b). Given
5 the numerous local conditions described above, the testing in East Lomita Boulevard—even if it
6 were feasible—likely would be very complicated. (Freed Decl., ¶ 22.) Moreover, if Equilon
7 does not comply with the additional requirement in the Section 13267 Letter and submit the
8 results of such testing by February 15, 2010, it faces the possibility of daily administrative
9 penalties. (Exh. E at pp. 2-3.) Thus, the additional requirement for testing along East Lomita
10 Boulevard imposes a substantial burden on Equilon.

11 8. By contrast, little or no benefit would be realized by testing in East Lomita
12 Boulevard at this time. For one thing, such testing is premature. As described in the 13267
13 Letter, the additional testing was ordered to determine whether the environmental impacts
14 present at the former Kast Property extend to the Wilmington Middle School. (Exh. E at p. 2.)
15 Before Equilon completes the environmental investigation at the Wilmington Middle School
16 campus, however, it will not be known whether *any* environmental issues exist at Wilmington
17 Middle School that potentially relate to the former Kast Property. In fact, the Regional Board
18 acknowledges this issue in another requirement contained in the 13267 Letter, where it requires
19 that “[s]tep-out, step-in, and step down soil and soil vapor sampling *will be conducted based on*
20 *the results of the analytical data[.]*” (Exh. E at 2 (emphasis added).) Until Equilon analyzes the
21 data and reports the results from the soil and soil vapor testing at Wilmington Middle School, it
22 cannot be determined what step-out, step-in or step-down soil and soil vapor sampling would be
23 appropriate.

24 9. Moreover, instead of producing useful data that could be used to assess whether a
25 potential pathway for soil contamination between the former Kast Property and Wilmington
26 Middle School exists, there is a substantial likelihood that any soil borings would encounter
27 either clean fill from the already completed portion of the sewer main installation work,
28 environmental impacts unrelated to the former Kast Property, or interference from the utilities

1 and pipelines in the area. (Freed Decl., ¶ 21.) Applying Section 13267(b), the burden placed on
2 Equilon by the requirement to test in East Lomita Boulevard far exceeds—and thus bears no
3 reasonable relationship to—the little to non-existent benefit that such testing would confer,
4 especially in light of the other investigatory work Equilon will be conducting at Wilmington
5 Middle School, which will be reported by February 15, 2009. (Freed Decl., ¶ 22.) For these
6 reasons, Equilon should be allowed to finish its investigation of the environmental conditions at
7 Wilmington Middle School and to complete an assessment of the southwest lateral extent of the
8 contamination at the former Kast Property, before considering whether any additional testing in
9 East Lomita Boulevard would be necessary or feasible.

10 10. *Third*, the additional testing also exceeds the clear limits placed on the Regional
11 Board's authority by Section 13360, which provides that "[n]o waste discharge requirement or
12 other order of a regional board ... shall specify the design, *location*, type of construction, or
13 particular manner in which compliance may be had with that requirement, order or decree."
14 Water Code § 13360 (emphasis added); *see also* State Water Board Resolution No. 92-49
15 ("Water Code § 13360 prohibits the Regional Water Boards from specifying, but not suggesting,
16 methods that a discharger may use to achieve compliance with requirements or orders.")

17 11. Equilon respectfully requests that the State Board grant the relief requested in this
18 Petition as set forth in the Request for Relief.

19 12. The 13267 Letter requires Equilon to submit the results of soil and soil vapor
20 testing in East Lomita Boulevard by February 15, 2010, but such testing is logistically and
21 technically infeasible and will yield little or no benefit in terms of establishing the environmental
22 conditions present at Wilmington Middle School. Equilon thus seeks relief through this Petition
23 because the challenged requirement is infeasible and violates Sections 13267(b) and 13360 of the
24 Water Code. Because Equilon did not learn that sampling in East Lomita Boulevard would be
25 included as an additional requirement until it received the 13267 Letter, it was unable to raise the
26 issues presented in this Petition prior the issuance of the 13267 Letter.

27 13. Equilon's statement of points and authorities in support of the issues raised by this
28 Petition commences below.

1 14. A copy of this Petition is being sent by personal messenger to the Regional Board
2 on December 23, 2009, to the attention of Ms. Tracy Egoscue, Executive Officer.

3 15. Equilon requests a hearing to address the contentions in the Statement of Points
4 and Authorities and reserves the right to modify and supplement this Petition. Equilon also
5 requests an opportunity to present additional evidence. *See* 23 Cal. Code Regs. § 2050.6. In the
6 alternative, Equilon requests that the State Water Board issue an order staying the Regional
7 Board's 13267 Letter and holding this Petition in abeyance pursuant to California Code of
8 Regulations § 2020.5(d) to permit the Regional Board and Equilon to engage in discussions in an
9 attempt to informally resolve this matter.

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1 the Regional Board on September 24, 2009. (*Id.*) Working in conjunction with the Regional
2 Board, Equilon began methane testing at residences in the Carousel neighborhood while the
3 Phase II Work Plan was being reviewed. (*Id.*, ¶ 7.) This testing was done with the knowledge
4 and approval of the Regional Board. (*Id.*) Testing at 53 residences showed either non-detects or
5 very low concentrations of methane well below screening levels. (*Id.*) Equilon will complete
6 methane testing at the remaining residences subject to the completion of access agreements. (*Id.*)

7 20. Pursuant to the approved Phase II Work Plan, Equilon also conducted soil and soil
8 vapor testing (including sub-slab soil vapor testing) at 36 residences.⁷ (*Id.*, ¶ 8.) Equilon has
9 reported final validated results for the first 35 houses to the Regional Board and has provided
10 these results to those residents, and will complete sampling at the remaining residences subject to
11 the completion of access agreements. (*Id.*, ¶ 9.)

12 21. In October and November 2009, Equilon submitted an Indoor Air Sampling Work
13 Plan, a Human Health Screening Evaluation ("HHSE") Work Plan, and an Interim Remedial
14 Action Plan, all of which have been approved by the Regional Board. (*Id.*, ¶ 10.)

15 22. On October 13, 2009, the Regional Board issued a request for a work plan for the
16 characterization of shallow soil and soil vapor at Wilmington Middle School. (*Id.*, ¶ 11 and
17 Exh. C.) The school is located approximately 300 feet west of the southwestern boundary of the
18 former Kast Property, on the south side of Lomita Boulevard. (Freed Decl., ¶ 11 and Exh. D,
19 Figure 1.) In the Regional Board's Request for Work Plan, Equilon was asked to conduct an
20 environmental investigation at Wilmington Middle School to determine whether the
21 environmental impacts present at the former Kast Property might have migrated to the school and
22 whether measures might need to be taken to protect the health of the children at the school.
23 (Exh. C at p. 1.) Equilon began preparing a work plan immediately and also contacted the Los
24 Angeles Unified School District ("LAUSD") to obtain input and to coordinate the testing
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27
28 ⁷ While hydrocarbons were detected at certain residences, some other substances were
detected at some residences which appear to be unrelated to the historical use of the former Kast
Property for petroleum reservoirs.

1 activity. (*Id.*, ¶ 12.) LAUSD reportedly carried out methane air testing at the school, which
2 showed no methane air impacts. (*Id.*)

3 23. On November 10, 2009, Equilon submitted its Work Plan for Offsite Shallow Soil
4 and Soil Vapor Characterization at the Wilmington Middle School (“Work Plan”). (Exh. D.) On
5 November 24, 2009, the Regional Board issued its letter approving the Work Plan (the “13267
6 Letter”). (Exh. E.) In the 13267 Letter, the Regional Board specified additional requirements,
7 including a requirement that Equilon “conduct additional soil and soil vapor sampling along East
8 Lomita Boulevard to enable a complete assessment of the subsurface pathway between the
9 footprints of the former Kast Property Tank Farm and the Wilmington Middle School site.”
10 (Exh. E at 2.) Pursuant to the 13267 Letter, Equilon’s report containing the results and
11 conclusions of the investigation of the Wilmington Middle School—including the additional
12 sampling along East Lomita Boulevard—was originally due on January 15, 2009. (*Id.*) On
13 December 17, 2009, the Regional Board agreed to extend the deadline for Equilon’s report to
14 February 15, 2010. (Freed Decl., ¶ 13 and Exh. F.)

15 24. Equilon has finalized an access agreement with LAUSD, has begun testing at the
16 Wilmington Middle School during its winter recess, and intends to submit a report containing the
17 results and conclusions of its investigation of the Wilmington Middle School site by the February
18 15, 2010 deadline. (*Id.*, ¶ 14.) However, for technical and logistical reasons, it will be infeasible
19 for Equilon to include in this report any results from sampling along East Lomita Boulevard.
20 (*Id.*) For that reason, Equilon asks the State Water Board immediately to grant Equilon’s
21 Request for Stay pending consideration of this Petition, and, ultimately, to rescind the
22 requirement in the 13267 Letter that Equilon conduct testing along East Lomita Boulevard. In
23 the alternative, Equilon requests that the State Water Board stay the 13267 Letter and hold this
24 Petition in abeyance pursuant to California Code of Regulations § 2020.5(d) to permit the
25 Regional Board and Equilon to engage in discussions to informally resolve this matter.

1 **II. THE REQUIREMENT THAT EQUILON INVESTIGATE THE SOIL AND SOIL**
2 **VAPOR IN EAST LOMITA BOULEVARD IS TECHNICALLY AND**
3 **LOGISTICALLY INFEASIBLE AND VIOLATES THE WATER CODE**

4 **A. *The Additional Testing Requirement is Technically and Logistically***
5 ***Infeasible***

6 25. The directive contained in the 13267 Letter for Equilon to "conduct additional soil
7 and soil vapor sampling along East Lomita Boulevard to enable a complete assessment of the
8 subsurface pathway between the footprints of the former Kast Property Tank Farm and the
9 Wilmington Middle School site" presents numerous substantial issues that are proper for the
10 State Board's review.

11 26. Such an undertaking would require Equilon to overcome numerous complicating
12 factors, including obtaining the necessary authorization from the City of Carson for additional
13 work in East Lomita Boulevard at the same time that the traffic in the five-lane road has been
14 confined to only two lanes to accommodate LACSD's ongoing sewer main work. (Freed Decl., ¶
15 15.) Based on Equilon's experience obtaining traffic control permits from the City of Carson in
16 connection with its investigatory activities relating to Equilon's Carson Terminal Facility, it is
17 highly unlikely that the City of Carson would authorize the additional testing until after the
18 LACSD's work in the area is completed. (*Id.*, ¶ 16.)

19 27. Even if Equilon could obtain timely authorization for sampling in East Lomita
20 Boulevard, Equilon still would need to coordinate and locate its soil and soil vapor sampling
21 activity to avoid interfering with LACSD's sewer main work and the ongoing environmental
22 activity evidenced by the groundwater or soil vapor extraction wells in the area, and at the same
23 time navigate the numerous underground utilities and pipelines running beneath East Lomita
24 Boulevard. (*Id.*, ¶¶ 17-20.) Notably, Equilon has not yet been able to identify the owner or
25 operator of the environmental wells or determine their construction or purpose, and until it does,
26 it cannot move forward with environmental testing that potentially might interfere with that
27 entity's own environmental activities in the area. (*Id.*)

1 ***B. The Additional Testing Requirement Exceeds the Limits Placed on the***
2 ***Regional Board by Sections 13267(b) and 13360***

3 28. The 13267 Letter's requirement for testing in East Lomita Boulevard is not only
4 technically and logistically infeasible, but also exceeds the clear limits placed on the Regional
5 Board's authority under Sections 13267(b) and 13360. Section 13267(b) specifically provides
6 that the Regional Board may require a discharger to "furnish under penalty of perjury, those
7 technical or monitoring program reports as the board may specify" only so long as "[t]he burden,
8 including costs, of these reports shall bear a reasonable relationship to the need for the report and
9 the benefits to be obtained from the reports." Water Code § 13267(b).

10 29. As described above, sampling in East Lomita Boulevard would require
11 authorization from the City of Carson, coordination with LACSD to avoid interfering with its
12 ongoing sewer main work, identifying and contacting the owner of the environmental wells in the
13 street, and the navigation of the numerous underground utilities and pipelines. Even if this could
14 be accomplished, it is highly unlikely that Equilon could complete all of these activities,
15 complete sampling and have validated results to report in its February 15, 2010 report regarding
16 the testing at Wilmington Middle School. Thus, while Equilon intends to deliver a timely report
17 complying with the other requirements in the 13267 Letter in accordance with its November 10,
18 2009 Work Plan, Equilon still will face the possibility of administrative sanctions pursuant to
19 Section 13268(b)(1) based on the Regional Board's new requirement for testing along East
20 Lomita Boulevard. (See Exh. E at pp. 2-3.)

21 30. This sampling is premature and likely would produce no useful data. (Freed
22 Decl., ¶ 21.) Indeed, as the Regional Board itself recognizes elsewhere in the 13267 Letter, such
23 "step-out" investigatory activity should "be conducted based on the results of the analytical data"
24 Equilon obtains from its investigation of Wilmington Middle School. (Exh. E at 2.) Until the
25 sampling at the school is completed, the Regional Board's additional testing requirement is
26 infeasible and the burden it creates for Equilon far exceeds the need for the data or the benefit the
27 testing activity would generate. Instead, it makes more sense to permit Equilon to finish its
28 investigation of the environmental conditions at Wilmington Middle School, to complete an

1 assessment of the southwest lateral extent of the contamination at the former Kast Property, and
2 then expand the investigation in conformance with the results of those investigations if the need
3 for additional off-site investigation is warranted.

4 31. The additional testing in East Lomita Boulevard also runs afoul of the limitation
5 placed on the Regional Board's authority by Section 13360, which provides that "[n]o waste
6 discharge requirement or other order of a regional board ... shall specify the design, location,
7 type of construction, or particular manner in which compliance may be had with that
8 requirement, order or decree." Water Code § 13360 (emphasis added); *see also* State Water
9 Board Resolution No. 92-49 ("Water Code § 13360 prohibits the Regional Water Boards from
10 specifying, but not suggesting, methods that a discharger may use to achieve compliance with
11 requirements or orders.")

12 32. Section 13360 has been described as permitting the Regional Board to tell
13 dischargers "what to do" but not "how to do it." 2 Manaster & Selmi, Cal. *Env. Law and Land*
14 *Use Practice*, § 32.39 (Matthew Bender, 2006). *See also In re Dr. Virgie Shore*, SWB Res. No.
15 86-10 at 3 n.1 ("The Regional Board is prohibited by Water Code Section 13360 from specifying
16 design of facilities in waste discharge requirements."); *In re Operating Industries, Inc.*, SWB
17 Res. No. 85-4 at 5 (Regional Board prohibited by Section 13360 from specifying the method
18 used to dispose of leachate). As one Court of Appeal put it, "Section 13360 is a shield against
19 unwarranted interference with the ingenuity of the party subject to a waste discharge requirement
20 ... It preserves the freedom of persons who are subject to a discharge standard to elect between
21 available strategies to comply with that standard." *Tahoe-Sierra Preservation Council v. State*
22 *Water Resources Control Board*, 210 Cal.App.3d 1421, 1439 (1989).

23 33. By requiring Equilon to "conduct additional soil and soil vapor sampling *along*
24 *East Lomita Boulevard*," the Regional Board is doing exactly what is prohibited by Section
25 13360: *i.e.*, "specifying the ... location ... [whereby] compliance may be had."

26 REQUEST FOR RELIEF

27 For the reasons set forth above, Equilon respectfully requests that the State Board grant
28 Equilon the following relief:

CALDWELL
LESLIE &
PROCTOR

1 1. That the State Board grant Equilon's Request for Stay, filed concurrently
2 herewith, pending the State Board's decision on this Petition.


3 2. That the 13267 Letter be rescinded and reissued without the requirement that
4 Equilon "conduct additional soil and soil vapor sampling along East Lomita Boulevard to enable
5 a complete assessment of the subsurface pathway between the footprints of the former Kast
6 Property Tank Farm and the Wilmington Middle School Site."

7 3. In the alternative, that the State Board grant Equilon's Request for Stay and hold
8 this Petition in abeyance pursuant to California Code of Regulations § 2020.5(d) to permit the
9 Regional Board and Equilon to engage in discussions in an attempt to informally resolve this
10 matter.

11 4. Such other relief as the State Board may deem just and proper.

12 DATED: December 23, 2009

CALDWELL LESLIE & PROCTOR, PC
MICHAEL R. LESLIE
DAVID ZAFT

15 By 
MICHAEL R. LESLIE
16 Attorneys for Petitioner EQUILON ENTERPRISES
17 LLC dba SHELL OIL PRODUCTS US
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DECLARATION OF EDWARD E. FREED

DECLARATION OF EDWARD E. FREED

I, Edward E. Freed, declare and state:

1. I am a Project Manager employed by Equilon Enterprises LLC dba Shell Oil Products US ("Equilon"). My duties include directing and managing environmental investigations and remediation projects. Based on my involvement in Equilon's investigation of the former Kast Property in Carson, California, I have personal knowledge of the facts stated herein, or I have been informed and believe such facts, and could and would testify competently thereto if called as a witness in this matter.

2. On or about May 8, 2008, the Regional Water Quality Control Board for the Los Angeles Region (the "Regional Board") issued a Water Code § 13267 Letter to Equilon. A true and correct copy of that letter is attached hereto as Exhibit A. In that letter, the Regional Board stated that it had been informed by the Department of Toxic Substances Control of the existence of a former petroleum storage facility which might have been the source for petroleum hydrocarbon contamination that had been detected in the soil and groundwater beneath a residential neighborhood in Carson called the "Carousel neighborhood." A review of a historical Sanborn map and aerial photographs indicated that the storage facility consisted of three petroleum reservoirs previously owned and maintained by Shell Oil Company from approximately 1923 to approximately 1965 on what was then known as the "Kast Property." The Regional Board directed Equilon to complete a Phase I report and to submit a work plan for the investigation of the soil, soil vapor and groundwater beneath the former Kast Property.

3. Attached as Exhibit B is a map showing the boundaries of the former Kast Property, which roughly corresponds to the area bounded by East Lomita Boulevard on the south, a railroad right-of-way on the north, Marbella Avenue on the west, and Panama Avenue on the east. This area is now occupied by approximately 285 single-family residential houses, which make up the Carousel neighborhood.

4. On July 14, 2008, Equilon submitted a Phase I Environmental Site Assessment for the former Kast Property. Then, on August 15, 2008, Equilon submitted a Phase I Site Characterization Work Plan. An addendum to the Phase I Site Characterization Work Plan

1 ("Work Plan Addendum") was submitted to the Regional Board on November 26, 2008. The
2 Work Plan Addendum was approved on December 31, 2008.

3 5. After sampling the soil, soil vapor and groundwater beneath the public rights-of-
4 way in the Carousel neighborhood pursuant to the Phase I Work Plan Addendum, Equilon
5 submitted an Interim Phase I Site Characterization Report on August 20, 2009, and a Final Phase
6 I Site Characterization Report on October 15, 2009.

7 6. Equilon submitted a Phase II Site Characterization Work Plan on September 21,
8 2009 which outlined the soil, soil vapor and indoor air testing Equilon proposed for the
9 residences in the Carousel neighborhood. The Phase II Work Plan was approved by the Regional
10 Board on September 24, 2009.

11 7. Equilon began methane testing at residences in the Carousel neighborhood while
12 the Phase II Work Plan was being reviewed. This testing was done with the knowledge and
13 approval of the Regional Board. Testing at 53 residences showed either non-detects or low
14 concentrations of methane well below screening levels. Equilon will complete methane testing at
15 the remaining residences subject to completion of access agreements.

16 8. Pursuant to the approved Phase II Work Plan, Equilon also conducted soil and soil
17 vapor testing (including sub-slab soil vapor testing) at 36 residences.

18 9. Equilon reported the final validated results of the soil and soil-vapor sampling for
19 the first 35 houses to the Regional Board, and provided these results to the residents, and will
20 complete the remaining testing subject to completion of access agreements.

21 10. In October and November 2009, Equilon submitted an Indoor Air Sampling Work
22 Plan, a Human Health Screening Evaluation ("HHSE") Work Plan, and an Interim Remedial
23 Action Plan, all of which have been approved by the Regional Board.

24 11. On October 13, 2009, the Regional Board issued a request for a work plan for the
25 characterization of shallow soil and soil vapor at Wilmington Middle School, which is located
26 approximately 300 feet west of the southwestern boundary of the former Kast Property, on the
27 south side of Lomita Boulevard. A true and correct copy of the October 13, 2009 Request for
28 Work Plan is attached hereto as Exhibit C. (A map showing the relative locations of Wilmington

1 Middle School and the former Kast Property is provided at Figure 1 to Exhibit D.) In the
2 Regional Board's Request for Work Plan, Equilon was asked to conduct an environmental
3 assessment of the school campus and determine whether any environmental impacts present at
4 the former Kast Property might have migrated to the school and whether measures might need to
5 be taken to protect the health of the children at the school.

6 12. Equilon—through its environmental consultant, URS Corporation ("URS")—
7 began preparing a work plan immediately and also contacted the Los Angeles Unified School
8 District ("LAUSD") to obtain input and coordinate the testing activity. LAUSD also reportedly
9 carried out methane air testing at the school, which showed no methane air impacts.

10 13. On November 10, 2009, Equilon submitted its Work Plan for Offsite Shallow Soil
11 and Soil Vapor Characterization at the Wilmington Middle School ("Work Plan"), a true and
12 correct copy of which is attached hereto as Exhibit D. On November 24, 2009, the Regional
13 Board issued its letter approving the Work Plan (the "13267 Letter"), a true and correct copy of
14 which is attached hereto as Exhibit E. In the 13267 Letter, the Regional Board included
15 additional requirements, including a requirement that Equilon "conduct additional soil and soil
16 vapor sampling along East Lomita Boulevard to enable a complete assessment of the subsurface
17 pathway between the footprints of the former Kast Property Tank Farm and the Wilmington
18 Middle School site." (Exh. E at 2.) Pursuant to the 13267 Letter, Equilon's report containing the
19 results and conclusions of the investigation of the Wilmington Middle School—including the
20 additional sampling along East Lomita Boulevard—was originally due on January 15, 2010. On
21 December 17, 2009, the Regional Board agreed to extend the deadline for Equilon's report to
22 February 15, 2010. A true and correct copy of the Regional Board's December 17, 2009 letter
23 approving this extension is attached as Exhibit F.

24 14. Equilon has finalized an access agreement with LAUSD and is in the process of
25 testing at Wilmington Middle School, which will be completed during the school's winter recess.
26 Equilon intends to submit a report containing the results and conclusions of its investigation of
27 the Wilmington Middle School site by the February 15, 2010 deadline. However, for the

1 following reasons, it will be technically and logistically infeasible for Equilon to include in this
2 report results from additional sampling along East Lomita Boulevard.

3 15. *First*, the Los Angeles County Sanitation District (the "LACSD") currently is
4 replacing the sewer main running beneath East Lomita Boulevard. The LACSD's work involves
5 the portion of East Lomita Boulevard running from west of Main Street to Avalon Boulevard,
6 which includes the relevant area lying between the former Kast Property and Wilmington Middle
7 School where Equilon is required to conduct soil and soil vapor testing pursuant to the 13267
8 Letter. (The part of East Lomita Boulevard which is the subject of the additional sampling
9 requirement in the 13267 Letter roughly runs from Bayview Avenue to Neptune Avenue.)
10 Based on discussions URS has had with the LACSD, the sewer main work involves a phased
11 excavation of the soil beneath certain lanes of East Lomita Boulevard, removal of sections of the
12 old sewer main, installation of a new sewer main, connection to local sewer lines (requiring
13 further excavation), installation of new clean fill, and repaving of the road surface. The east- and
14 west-bound traffic on East Lomita Boulevard have been consolidated from five lanes to two
15 lanes to accommodate the LACSD's sewer main work.

16 16. Based on Equilon's and URS's past experiences obtaining traffic control permits
17 from the City of Carson to conduct testing in the public streets, I believe it is highly unlikely that
18 the City of Carson would grant Equilon a permit to conduct the required sampling in East Lomita
19 Boulevard while the LACSD's sewer main work is pending. Even if Equilon could obtain the
20 necessary permit to conduct the required sampling in LACSD's traffic control area, doing so
21 would raise significant safety and liability issues.

22 17. *Second*, there appears to be ongoing environmental activity located in the relevant
23 area. A number of groundwater or soil vapor extraction wells are located about 12 to 15 feet
24 north of the southern curb of East Lomita Boulevard and between Neptune Avenue and Gulf
25 Avenue. Based on discussions with the LACSD's contractor (who, as described above, is
26 working in the area), Equilon is informed and believes that these wells relate to an investigation
27 involving gasoline contamination. (If true, this would be unrelated to the investigation at the
28 former Kast Property which involves the historical storage of oil.) Despite their efforts, Equilon

1 and URS have been unable to identify the owner or operator of these wells, or their construction
2 or purpose.

3 18. In addition, the State Water Board's Geotracker site shows three separate open
4 matters before the Regional Board relating to Blue Jay Land Enterprises, Inc. in the area along
5 East Lomita Boulevard near Bayview and Neptune Avenues. True and correct copies of the
6 Geotracker map for the relevant area, along with some excerpts from the online records for these
7 three matters are attached hereto as Exhibit G.

8 19. Given the need to coordinate work with any already-existing environmental
9 activity in the area, I believe it would not be advisable to undertake the additional testing along
10 East Lomita Boulevard required in the 13267 Letter until the nature and scope of the existing
11 environmental activity can be determined.

12 20. *Third*, any soil and soil vapor sampling would be complicated by the presence of
13 the numerous utilities and petroleum pipelines running beneath East Lomita Boulevard. A map
14 showing the utilities and pipelines running beneath East Lomita Boulevard is attached as Exhibit
15 H. Because these utilities and pipelines occupy a significant portion of the area beneath East
16 Lomita Boulevard, and given the presence of overhead utilities in the area, it will be difficult to
17 determine suitable locations for soil borings, and this also will increase the amount of time and
18 expense required to conduct this additional testing.

19 ///

20 ///

21 ///

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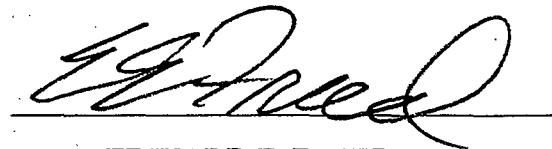
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1 21. In addition to being technically and logistically infeasible, there is a significant
2 chance that any soil borings into the relevant portion of East Lomita Boulevard will encounter
3 clean fill from the already completed portion of the sewer main installation work, environmental
4 impacts unrelated to the former Kast Property, or interference from utilities or pipelines in the
5 area.

6 22. Equilon intends to comply with the portions of the 13267 Letter which it does not
7 challenge in its Petition for Review, including conducting soil and soil vapor sampling at
8 Wilmington Middle School, and reporting the results to the Water Board by January 15, 2010.
9 However, given the issues discussed above, Equilon will not be able to comply with the
10 additional requirement to conduct sampling in East Lomita Boulevard. Even if such sampling
11 were feasible, it likely would be very complicated and expensive, and would require more time
12 than the 13267 Letter provides. If Equilon does not comply with the additional sampling
13 requirement in the Section 13267 Letter, however, and submit the results of such testing by
14 January 15, 2010, the Water Board has threatened to impose administrative sanctions on Equilon.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct, and that this Declaration was executed on December 22, 2009 in
17 Los Angeles, California.

18
19 

20 EDWARD E. FREED

EXHIBIT A



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams.
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

May 8, 2008

Mr. Eugene Freed
Shell Oil Products US
Environmental Services
20945 S. Wilmington Ave.
Carson, CA 90810

Certified Mail
Return Receipt Requested
Claim No. 7006 3450 0002 4641 9920

CALIFORNIA WATER CODE, SECTION 13267 ORDER TO CONDUCT AN ENVIRONMENTAL INVESTIGATION AT FORMER KAST PROPERTY TANK FARM, LOCATED EAST OF 24700 SOUTH MAIN STREET, CARSON, CALIFORNIA 90745 (SITE CLEANUP NO. 1230)

Dear Mr. Freed:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of the Los Angeles and Ventura Counties, including the referenced site.

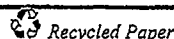
On March 11, 2008, the Department of Toxic Substances Control (DTSC) staff informed the Regional Board about a former Kast property tank farm (KPTF) located immediately east of the former Turco Products, Inc. (TPI) facility, as a potential source of petroleum hydrocarbon contamination in soil and groundwater beneath the TPI. The DTSC provides regulatory oversight for the environmental investigation of the former TPI facility. A Sanborn map (Figure 1) dated December 1925 shows that the KPTF (Site) was owned by Shell Oil Company (Shell) and consisted of three above ground storage tanks with a combined capacity of 3.5 million barrels. The Site occupies an area currently bounded by East 244th Street to the north, Lomita Boulevard to the south, Marabella Avenue to the west, and Panama Avenue to the east. Aerial photo records show that KPTF was built in 1925 and removed in 1960s, and since then developed into a residential neighborhood. In a letter dated April 21, 2008 a representative of Shell, the URS Corporation, acknowledges the ownership of the aforementioned tank farm by Shell. This letter provides Regional Board requirements to conduct an environmental investigation at the Site.

According to the DTSC, the limited investigation conducted for TPI confirm that soil and groundwater beneath the facility are impacted with petroleum related contaminants and identifies KPTF as a potential source of the contaminants. In addition, current residents of the Site have reported to DTSC the occurrence of oily soil on their property.

The Regional Board is concerned with the potential threat to the health of residents from the exposure to petroleum related contaminants. As a former owner and operator of the Site, Shell is required to initiate a complete environmental investigation including evaluation of impacts to groundwater and the potential threat to human health and if immediate action is required.

California Environmental Protection Agency

EXHIBIT **A**



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. Eugene Freed
Shell Oil Company

-2 -

May 8, 2008

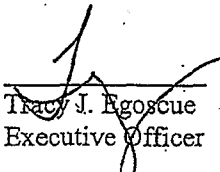
Based on the available information, Shell Oil Company is subject to the following requirements:

1. The long industrial use of the Site requires a thorough investigation of the industrial operations conducted and chemicals used or stored at the Site. You are required to conduct a Phase I investigation that includes a contaminant source evaluation which entails identifying potential source areas (pits, sumps, clarifiers, underground and aboveground storage tanks, piping, etc.) and provide a detailed list of chemicals used, stored or disposed at the Site. The report must include available records of any soil imported to or exported from the site. Shell is directed to submit the Phase I report for Regional Board review by **June 13, 2008**.
2. Develop a comprehensive workplan for the investigation of all media (soil, soil vapor, and groundwater) sampling to completely characterize the chemicals of concern (COCs) originating from the Site. You are directed to submit this workplan for Regional Board review and approval by **June 13, 2008**.
3. The soil, soil vapor and groundwater characterization workplans must contain a site-specific health and safety plan (HSP) in compliance with California Occupational Safety and Health Agency (Cal-OSHA), Health and Safety Code, Title 8, California Code of Regulations (CCR), Section 5192 and other appropriate sections.
4. Pursuant to State Water Resources Control Board Resolution No. 92-49, under Water Code Section 13304, all investigations shall be conducted by, or under the direct responsible supervision of, a registered professional geologist or licensed civil engineer. All technical documents submitted to the Regional Board must be reviewed and signed and/or stamped by a California registered professional geologist, a California registered certified specialty geologist, or a California registered civil engineer with at least five years hydrogeologic experience.

You are directed to furnish the technical reports as required under the provision of Section 13267 of California Water Code. Therefore, pursuant to Section 13268 of the California Water Code, failure to submit the required technical reports or documents by the due dates specified may result in civil liability administratively imposed by the Regional Board in an amount up to one thousand dollars (\$1,000) for each day the report or document is not received.

If you have any questions, please contact the Project Manager Dr. Teklewold Ayalew at (213) 576-6743, or Mr. Adnan Siddiqui at (213) 576-6812 or the Site Cleanup Program Manager, Dr. Arthur Heath at (213) 576-6725.

Sincerely,


Tracy J. Egoscue
Executive Officer

cc. See next page

California Environmental Protection Agency



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Mr. Eugene Freed
Shell Oil Company

-3 -

May 8, 2008

Attachments: Figure 1

Cc: Chris Osterberg, URS Corporation
Robert Romero, DTSC

California Environmental Protection Agency



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Figure 1

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Certification # 9CEE-457C-81B8

Site Name: 24700 South Main Street
Address: 24700 South Main Street
City, ST, ZIP: Carson, CA, 90745
Client: ERN - West, Inc.
EDI Inquiry: 205551635
Order Date: 10/18/2007 8:10:12 AM
Certification #: 9CEE-457C-81B8

Research Associate: LJP

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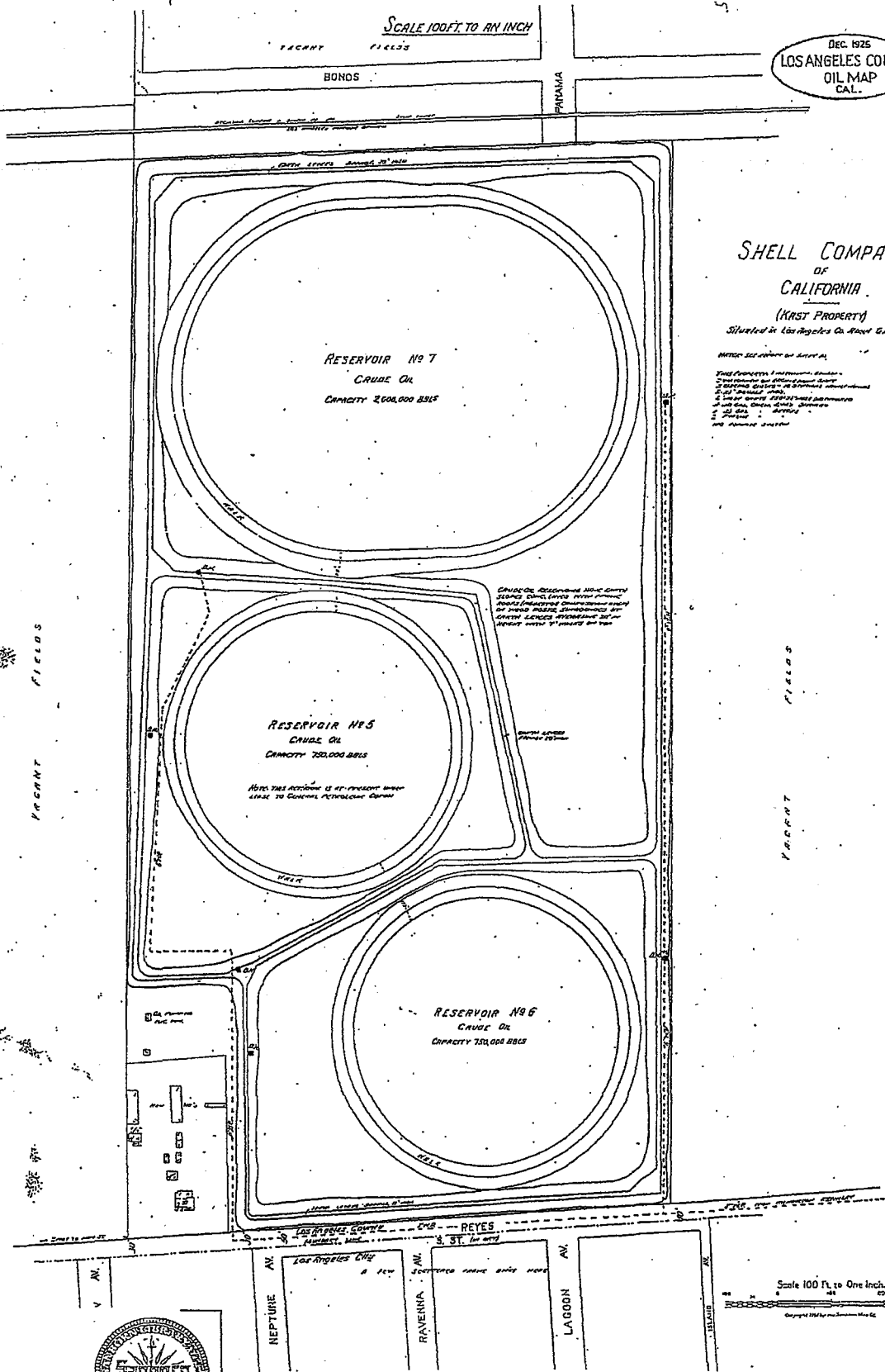
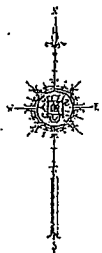
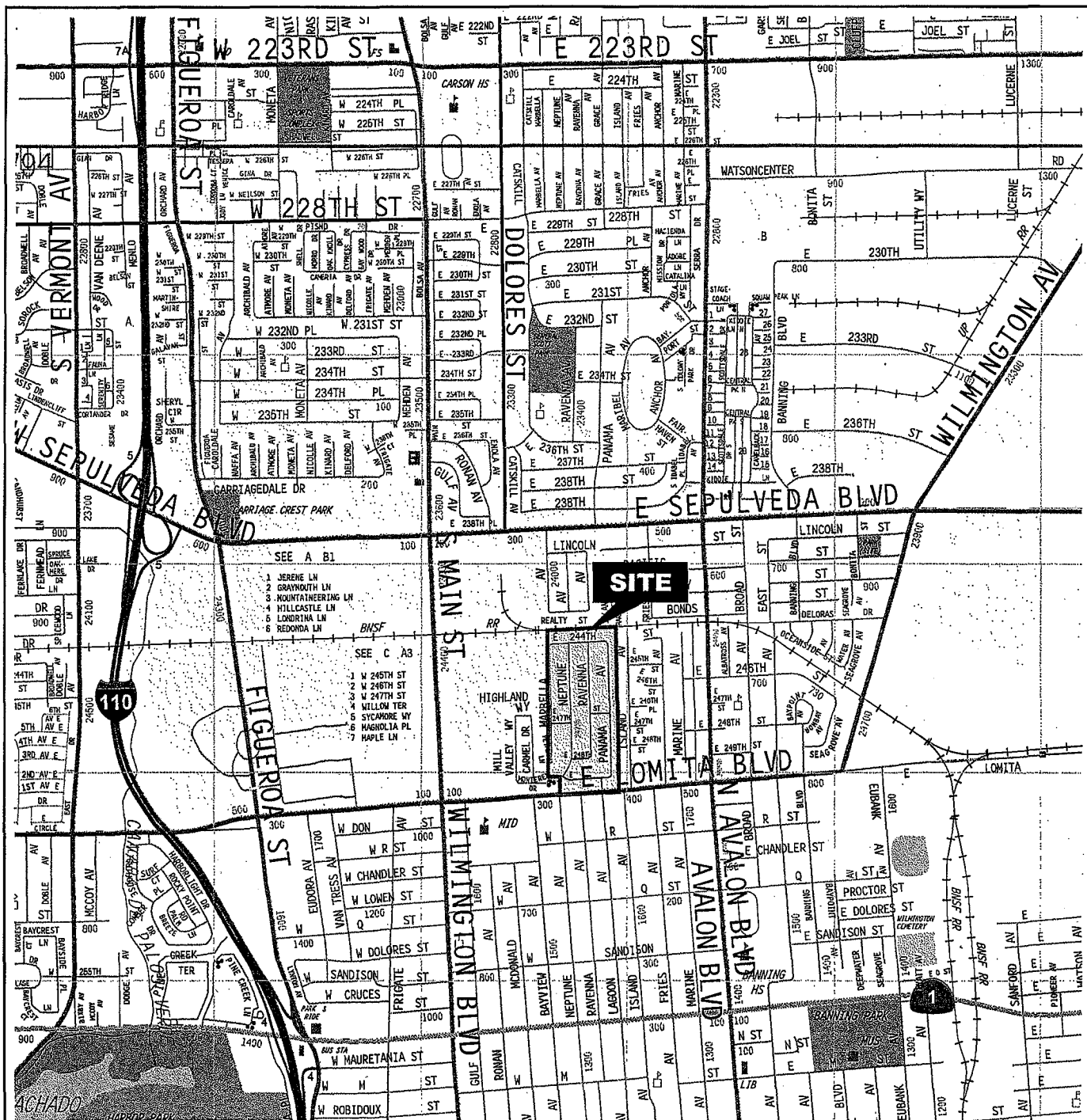


EXHIBIT B



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SITE VICINITY MAP

Project No.: 49194314

Date: JUNE 2008

Project: Former KAST Property

Figure 1

EXHIBIT **B**

URS

EXHIBIT C



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

October 13, 2009

Mr. Edward E. Freed
Shell Oil Products US
Environmental Services Company
20945 S Wilmington Ave.
Carson, CA 90810

REQUIREMENTS OF WORK PLAN FOR OFF-SITE SHALLOW SOIL AND SOIL VAPOR INVESTIGATION PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 - FORMER SHELL OIL COMPANY KAST PROPERTY TANK FARM LOCATED AT SOUTH EAST OF THE INTERSECTION OF MARBELLA AVENUE AND EAST 244TH STREET, CARSON, CALIFORNIA (SITE CLEANUP NO. 1230, SITE ID 2040330)

Dear Mr. Freed:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles and Ventura counties, including the above referenced site. To accomplish this goal, the Regional Board has been requiring site cleanup and quarterly groundwater monitoring reports to mitigate and monitor the contamination that has occurred at the site.

Regional Board has been providing regulatory oversight of the environment investigation at the former Kast Property Tank Farm (KPTF) since May 2008. The analytical results of limited soil vapor and soil samples from across the site are presented in the interim report titled *Interim Site Characterization Report* dated August 20, 2009 prepared by URS Corporation on behalf of the Shell Oil Products US (Shell). The results indicate the presence of methane gas and benzene at concentrations exceeding the screening levels for shallow soil gas across the site.

Benzene was detected in 66 of the 73 locations in soil vapor samples collected from a 5-foot depth across the site. Overall benzene concentrations in 47 of the 66 samples exceed the shallow soil gas California Human Health Screening Levels (CHHSLs) established for residential scenarios of 0.036 micrograms per liter ($\mu\text{g/L}$). The results are as follow: 1) 21 samples ranged from 0.0362 - 0.36 $\mu\text{g/L}$; 2) 11 samples ranged from 0.36 to 3.6 $\mu\text{g/L}$; 3) 8 samples ranged from 3.6 to 36 $\mu\text{g/L}$; 4) 4 samples ranged from 36 to 360 $\mu\text{g/L}$; 5) 2 samples ranged from 360 to 3600 $\mu\text{g/L}$; and 6) 1 sample was greater than 3600 $\mu\text{g/L}$. Currently, Regional Board has already directed Shell to conduct additional assessment to address concerns of soil vapor intrusion into indoor air and the potential safety hazard from methane gas for the residential homes located at the site.

Significantly high concentrations of both methane and benzene are reported for samples (i.e., designated as 248-SV-01-05, 249-SV-02-05 and 249-SV-04-05) collected from locations in close proximity to Wilmington Middle School, Los Angeles Unified School District (LAUSD) located at 1700 Gulf Avenue, Wilmington, CA 90744 (Figure 1). The Regional Board is concerned that the contamination plume may have extended offsite beneath the school property; and as a result there may be a potential threat to the health of the children at the aforementioned school from contaminants originating from KPTF site. Therefore, the Regional Board is hereby ordering Shell to conduct an assessment at the Wilmington Middle School properties expeditiously to determine if measures are warranted at this time to protect public health and the environment.

California Environmental Protection Agency

EXHIBIT

C



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Mr. Edward E. Freed
Shell Oil Products US

- 2 -


October 13, 2009

The State Water Resources Control Board (State Water Board) adopted regulations requiring the electronic submittals of information over the internet using the State Water Board GeoTracker data management system. You are required not only to submit hard copy reports required in this Order, but also to comply by uploading all reports and correspondence prepared to date and additional required data formats to the GeoTracker system. Information about GeoTracker submittals, including links to text of the governing regulations, can be found on the Internet at the following link:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

If you have any questions, please contact me at (213) 576-6743 or tayalew@waterboards.ca.gov.

Sincerely,


Teklewold Ayalew, Ph.D., P.G.
Site Cleanup Program, Unit III

Enclosure: 1) Figure 1
2) Requirement to Provide a Technical Report (California Water Code Section 13267 Order)

Cc: Laura Richardson, Honorable Congresswoman, US House of Representatives, California's 37th District
Jenny Oropeza, Senator, 28th Senate District
Warren T. Furtani, Assembly member, 55th Assembly District
Thomas L. Watson, Los Angeles Unified School District
Jim Dear, Mayor of Carson
Sheri Repp-Loadsman, City of Carson
Ky Truong, City of Carson
Jennifer Fordyce, Office of Chief Counsel, State Water Resources Control Board
Jerome G. Groomes, Carson's City Manager
James Carlisle, Office of Environmental Health Hazard Assessment
Robert Romero, Department of Toxic Substances Control
Wendy W. Arano, Department of Toxic Substances Control
Bill Jones, Los Angeles County Fire Department
Barry Nugent, Los Angeles County Fire Department
Shahin Nourishad, Los Angeles County Fire Department
Miguel Garcia, Los Angeles County Fire Department
Alfonso Medina, Los Angeles County Department of Health
Cole Landowski, Los Angeles County Department of Health
Angelo Bellomo, Los Angeles County Department of Health
Karen A. Lyons, Shell Oil Products US
Alison Abbott Chassin, Shell Oil Products US
Hal Dash, Cerrell Associates
Allen E. Blodgett, URS Corporation
Chris Osterberg, URS Corporation

California Environmental Protection Agency



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Mr. Edward E. Freed
Shell Oil Products US

- 3 -

October 13, 2009

Michelle Vega, Edelman
Robert Ettinger, Geosyntec
Barbara Post, Carousel Homes Homeowners Association

California Environmental Protection Agency

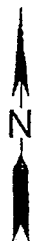


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0 666 1,332
 SCALE IN FEET
 1" = 666'



Source: Environmental Data Resources

Historical Aerial Photograph - 2002

Project No.: 49194314

Date: JUNE 2008

Project: Former KAST Property

Figure 2

K:\2008\KAST\figure 2 Hist Aerial-02.ai

Figure 1

URS



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

REQUIREMENT TO PROVIDE TECHNICAL REPORTS (CALIFORNIA WATER CODE SECTION 13267¹)

FORMER KAST PROPERTY TANK FARM
SOUTH EAST OF THE INTERSECTION OF MARBELLA AVENUE
AND EAST 244TH STREET, CARSON, CALIFORNIA
(SITE CLEANUP NO. 1230, SITE ID 2040330)

You are legally obligated to respond to this Order. Please read this carefully.

You are the responsible party identified for soil, soil vapor and groundwater investigation at the referenced site.

Pursuant to section 13267(b) of the California Water Code (CWC), you are hereby directed to submit the following:

1. By **November 12, 2009**, you are required to submit a work plan for a multi-depth shallow soil and soil-vapor investigation across the Wilmington Middle School of the Los Angeles Unified School District (LAUSD) located at 1700 Gulf Avenue, Wilmington, California. This work plan shall consider the potential health risk to human health via vapor intrusion into indoor air.
2. You must also provide a copy of the work plan to LAUSD for review and comments.

The Regional Board needs the required information in order to consider all potential pathways and provide human health screening evaluation for the school.

Pursuant to section 13268(b)(1) of the CWC, failure to submit the required technical and monitoring report described in paragraphs 1 and 2 (above) or failure to comply with regulations requiring the electronic submittal of information, which went into effect on January 1, 2005, may result in the imposition of civil liability penalties by the Regional Board, without further warning, of up to \$1,000 per day for each day the reports are not received or compliance with the required electronic submittal of information is not met, after the *above* due date.

¹ California Water Code section 13267 states, in part: (b)(1) In conducting an investigation. . . , the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region . . . shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

California Environmental Protection Agency



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Mr. Edward E. Freed
Shell Oil Products US

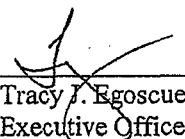
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October 13, 2009

We believe that the burdens, including costs, of these reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. If you disagree and have information about the burdens, including costs, of complying with these requirements, provide such information to Dr. Teklewold Ayalew within ten days of the date of this letter so that we may reconsider the requirements.

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

SO ORDERED.


Tracy J. Egoscue
Executive Officer

October 13, 2009

California Environmental Protection Agency



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EXHIBIT D



November 10, 2009

Dr. Teklewold Ayalew
Regional Water Quality Control Board, Los Angeles Region (LARWQCB)
320 West 4th Street, Suite 200
Los Angeles, California 90013

**SUBJECT: WORK PLAN FOR
OFFSITE SHALLOW SOIL AND SOIL VAPOR CHARACTERIZATION
AT THE WILMINGTON MIDDLE SCHOOL
RELATED TO THE FORMER KAST PROPERTY
CARSON, CALIFORNIA
SITE CLEANUP NO. 1230**

Dear Dr. Ayalew:

Introduction and Background

URS Corporation (URS) has been retained by Equilon Enterprises, LLC, doing business as Shell Oil Products US (SOPUS), to further assess subsurface soil and soil vapor conditions at the former Kast Property (Site). Initial Site characterization activities have been conducted including soil, soil vapor, and groundwater sampling in city streets which comprise portions of the Site (URS, 2009). The findings of the initial characterization identified elevated levels of methane and benzene in soil vapor collected from three locations (248-01-05, 249-SV-02-05, and 249-SV-04-05) located in 248th Street and 249th Street near the southern portion of the Site, the closest lying approximately 120 feet north of East Lomita Boulevard. Wilmington Middle School is located one block west, south of East Lomita Boulevard, to the southwest of the Site at 1700 Gulf Avenue in Wilmington, California (Figure 1). The groundwater flow direction beneath the Site is to the northeast at an approximate gradient of 0.002. Therefore, Wilmington Middle School is located upgradient of the Site.

Based on the findings of the initial Site characterization, the Los Angeles Regional Water Quality Control Board (LARWQCB) issued an order on October 13, 2009 to submit a work plan for multi-depth shallow soil and soil-vapor characterization at the Wilmington Middle School property. This work plan outlines the proposed characterization activities.

Review of historical topographic maps for the Phase I Environmental Site Assessment (Phase I ESA) Report for the Former Kast Property prepared by URS and dated July 14, 2008, indicates that Wilmington Middle School was constructed between 1948 and 1951. Evidence of oil or chemical storage or production facilities was not identified on the school property based on aerial photograph interpretation (aerial photographs dated 1928 through 2002). However, oil and chemical production facilities, oil wells, and other industrial facilities historically have surrounded the school property. These have included the former Turco Facility, Oil Transport Co. Inc., Oil Fields Trucking Inc., and Chemical and Aerospace Products properties to the north, across East Lomita Boulevard, as well as the former Fletcher Oil Facility to the northwest, across East Lomita Boulevard and South Main Street. Small to medium-sized buildings

URS Corporation
2020 East First Street, Suite 400
Santa Ana, CA 92705
Tel: 714.835.6886
Fax: 714.667.7147

EXHIBIT D



Dr. Teklewold Ayalew
Regional Water Quality Control Board, Los Angeles Region
November 10, 2009
Page 2

and roads or trails are shown on the 1928 and 1947 aerial photographs on the northeast portion of the current school property. The use of these features is not obvious from the photographs.

Based on review of the aerial photographs, USGS topographic maps, and the Munger book of California and Alaska oil and gas well maps; one oil well was present on the offsite property directly to the north of the school across East Lomita Boulevard, two additional wells were located offsite to the northeast of the school property across East Lomita Boulevard, one well was located offsite to the west and six oil wells were located within one city block on offsite properties to the southwest, south and southeast of the current school property. Subsequent aerial photographs show the eastern third of the school property has remained unpaved since school development.

Based on this review, focused characterization of the northeast portion of the Wilmington Middle School property nearest to the former Kast Property is proposed, in accordance with the LARWQCB order dated October 13, 2009. The proposed characterization activities include shallow soil and soil vapor sampling on the Wilmington Middle School property. The recommended scope of work includes:

- ◆ Multi-depth soil sampling from hand-auger borings at depths of 0.5, 5, and 10 feet below ground surface (bgs) to assess the potential presence of volatile and semi-volatile organic compounds (VOCs and SVOCs) and metals in shallow soils;
- ◆ Installation and sampling of soil vapor probes at each of the hand auger soil boring locations at 5 feet bgs and at 15 feet bgs at selected locations to assess the potential presence of methane, VOCs, and hydrogen sulfide in soil vapor;
- ◆ Analysis of collected soil and soil vapor samples by California state-certified laboratories using U.S. Environmental Protection Agency (USEPA)-approved methods; and,
- ◆ Interpretation of the collected data, analytical results, and preparation of a report summarizing findings.

This work plan provides a general description of the soil and soil vapor sampling activities proposed for the Wilmington Middle School property. Based on chemical compounds detected at the former Kast Property, the primary chemicals of concern (COCs) for the Site are related to crude oil and bunker oil.

Prior to any work on the Wilmington Middle School property, the Los Angeles Unified School District (LAUSD) will be contacted and written permission will be obtained for the work. Work will be conducted according to a Site-specific Health and Safety Plan (HASP) in compliance with California Department of Occupational Health and Safety, Health and Safety Code, Title 8, California Code of Regulations (CCR), Section 5192 and other appropriate sections. The HASP will be signed by a Certified Industrial Hygienist.



Dr. Teklewold Ayalew
Regional Water Quality Control Board, Los Angeles Region
November 10, 2009
Page 3

Work will be conducted under the direction of a California registered Professional Geologist or Professional Civil Engineer.

Pre-Field Activities

Underground Services Alert (USA) will be notified of our intent to conduct subsurface explorations at least 48 hours prior to initiation of intrusive field tasks. Proposed locations of subsurface explorations will be clearly marked with white paint or surveyors flagging as required by USA. Sample locations will be marked in consultation with LAUSD-OEHS. USA will contact utility owners of record within the vicinity and notify them of our intention to conduct subsurface explorations in proximity to buried utilities. The utility owners of record, or their designated agents, will be expected to clearly mark the position of their utilities on the ground surface throughout the area designated for exploration.

Surface geophysics will be used at each proposed boring location in an effort to identify subsurface lines and obstructions. Geophysical methods may include magnetic, electromagnetic, ground penetrating radar (GPR), and electromagnetic line location.

Shallow Soil Sampling

Because the school is in operation, soil boring and soil gas probe installation and sampling activities will be limited to after-school hours or days during which students and staff are not present on campus (i.e., weekends and school holidays). Plastic sheeting will be laid down at each sample location to limit the potential for cuttings to be scattered on the school property surface. Soil sampling will be conducted at 20 representative locations on the school property to evaluate the potential presence and nature of chemical constituents in the soil. Sampling locations will extend along the northern and eastern property boundaries (the boundaries closest to the former Kast Property) approximately 500 feet west and 500 feet south of the intersection of East Lomita Boulevard and Bayview Street respectively, on an approximately 100-foot grid.

Twenty hand-auger borings will be advanced and sampled (as shown on Figure 3). Borings likely will be installed in landscaped/open areas, but may be completed through holes cored in concrete or asphalt-surfaced areas as warranted and if permission is granted by LAUSD. The final exploration locations will be coordinated with LAUSD.

Soil Sampling Procedures

Hand-auger borings will be advanced manually to 10 feet bgs using hand augers, which consist of a 6-inch-long stainless-steel bucket with two sharp auger bits at the base and a bow bracket on the top connected to an extension rod. The auger is advanced when it is pushed downwards and rotated



Dr. Teklewold Ayalew
Regional Water Quality Control Board, Los Angeles Region
November 10, 2009
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clockwise. Soil cuttings will be contained within the auger and removed from the boring when the auger is extracted from the borehole. The soil borehole will be used for installation of soil vapor probes after collection of soil samples. Resurfacing with either sod or fast-setting concrete will be performed to restore the location, as appropriate. Exploration-derived waste will be removed daily and stored as described below.

Soil samples will be collected from each boring at depths of 6 inches, 5 feet, and 10 feet bgs. Additional samples may be collected based on observations of changes in lithology and/or environmental conditions. To limit the potential for damaging undetected subsurface utilities, soil samples will be collected from the bucket of the hand auger and placed into appropriate containers. Soil samples for possible analysis of VOCs will be taken in accordance with USEPA Method 5035 by mounting Encore™ samplers on the end of a sampling rod, lowering it to the bottom of the borehole, and pushing the sampler into the soil by hand pressure only. Sample labels will then be affixed to the containers with the following information: property address, boring number, sample number and depth, date and time of collection, collector name, and client name. Soil sample containers will then be sealed in individual zip-lock bags. The sealed and labeled samples will be placed in ice chests containing ice or blue ice and delivered under chain-of-custody to a state of California-certified testing laboratory.

During drilling operations, field instruments will be used to monitor the presence and level of organic vapors in the borings, and to screen soil samples and the workers' breathing zone for health and safety purposes. A portion of each soil sample will be placed inside a plastic sample bag for screening in the field. The bag will then be sealed and placed in a warm location for approximately 20 minutes to promote volatilization of chemical constituents. Following this equilibration period, the total organic vapor concentration in the sample headspace will be measured with a photo ionization detector (PID) calibrated to 100 parts per million Hexane. In addition, at the specific request of LAUSD, sample headspace will also be checked for methane and hydrogen sulfide using a Landtec GEM-2000 (Landtec) and a Jerome 631-X analyzer (Jerome), respectively. Calibration procedures for the field instruments will be included in URS' HASP.

The PID, Landtec and Jerome instruments will also be used to monitor VOCs, methane, and hydrogen sulfide, respectively, in the borings and in the workers' breathing zone to monitor for health and safety purposes.

The field instrument readings will be recorded on boring logs prepared by the field geologist during drilling activities. The following information will also be recorded on the boring logs: boring number and location; sample identification numbers; date and time; sample depth; lithologic



Dr. Teklewold Ayalew
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Page 5

description in accordance with the Unified Soils Classification System (USCS); and description of evidence of soil contamination (i.e., odor, staining).

Soil Sample Analysis

To evaluate the potential existence and nature of constituents that may be present in the soil, samples selected for laboratory analysis will be analyzed for:

- ◆ Total petroleum hydrocarbons (TPH) as gasoline (C_4 to C_{12}), diesel (C_{10} to C_{28}), and motor oil (C_{17} to C_{44}) using USEPA Method 8015 modified.
- ◆ VOCs using USEPA Method 8260B/5035, and
- ◆ A statistically representative number of samples will also be analyzed for semi-volatile organic compounds (SVOCs) using USEPA Method 8270 SIM and metals using USEPA Methods 6010B/7000.

Soil Sample Quality Assurance/Quality Control Methods

Duplicate soil samples will be collected at a frequency of 10%. The duplicate samples will be analyzed for TPH (C_6 to C_{36}) using USEPA Method 8015 modified and VOCs by USEPA Method 8260/5035.

An unopened trip blank, prepared by the laboratory, will be transported to the Site and then returned to the laboratory for analysis each day of sampling. The trip blank will be analyzed for VOCs by USEPA Method 8260B to evaluate if there has been cross-contamination associated with sample handling and transport. The soil samples and trip blanks will be placed in insulated containers with ice or blue ice for preservation, handled under appropriate chain-of-custody protocols and submitted to a California-certified laboratory for analysis.

Following laboratory analyses and reporting, the laboratory reports will be reviewed for completeness. A general assessment of reported data includes the following details:

- ◆ Holding times;
- ◆ Method and trip blanks;
- ◆ Laboratory control sample (LCS) and laboratory control sample duplicate (LCSD) results;
- ◆ Matrix spike and matrix spike duplicate results;
- ◆ Surrogate compounds; and
- ◆ Elevated reporting limits.

Shallow Soil Vapor Sampling

Temporary soil vapor probes will be installed at a depth of 5 feet bgs at each of the locations used for soil sample collection. At nine of these locations, an additional vapor probe will also be installed at 15 feet bgs. The soil vapor probes will be installed on the Wilmington Middle School property to assess potential VOC and methane impacts. The probe locations will be installed outside of school buildings, as shown on Figure 3. The soil vapor probes will be sampled in general accordance with the *Advisory - Active Soil Gas Investigations* (LARWQCB/DTSC, 2003) guidance document. Samples for laboratory analysis will be collected in Summa canisters and sent to a fixed laboratory for analysis. Probe installation and sampling are described below

Shallow Vapor Probe Installation Procedures

Temporary soil gas implants will be installed in the hand-auger borings described above for soil sampling. The implants will consist of a porous, 1-inch long, stainless-steel filter. After soil sampling has been completed to 10 feet bgs, the boreholes will be backfilled with bentonite chips, hydrated, and allowed to set for approximately 30 minutes. The deeper borehole locations will be hand augered to the desired sampling depth and the rods will then be removed and the borehole depth tagged to ensure excessive slough has not entered the hole. For the locations where soil vapor probes will be installed at 15 feet bgs, the boreholes may be advanced from 10 to 15 feet bgs using a direct push method if hand augering proves infeasible due to soil conditions.

Each implant and attached Nylaflow™ tubing will be inserted into the borehole and the annulus around the implant will be backfilled with 1 foot of #3 Monterey sand. The sand pack will extend approximately 6 inches below and above the 1-inch filter tip. Approximately 1 foot of dry granular bentonite will then be added to the top of the sand pack to provide a seal and prevent the infiltration of hydrated bentonite grout. Hydrated bentonite grout will then be added above the dry granular bentonite seal to the ground surface, as applicable, and the probe tubing will be capped with a gas-tight valve. The implants will be allowed to equilibrate for a minimum of 48 hours prior to sample collection in accordance with the DTSC/LARWQCB Advisory. The probe installation time and start of purge time will be documented in soil vapor sampling logs to document the equilibration time. Soil gas sample tubing will be folded and covered so that it is not visible at the ground surface, pending appropriate abandonment/removal by URS.

Shallow Soil Vapor Pressure Measurement: Prior to purging and sampling, the shallow soil vapor pressure will be measured. A pressure gauge capable of reading 0.1 inch of water (in-H₂O) will be connected to the probe to read the soil vapor pressure. The date, time, and pressure reading will be recorded on the field sheet.

Vacuum Leak Test: The sampling train will be connected to the probe and a vacuum leak test will be conducted to identify potential leaks in the sampling train. With the valve to the probe closed, a vacuum



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of at least 20 inches of water (in-H₂O) will be applied to the sampling train and then the valve to the vacuum pump closed. The vacuum within the sampling train will be monitored for 30 seconds. If a decrease in vacuum is observed during this period, sampling train components will be evaluated to identify the source of the leak and correct it. If no change in vacuum is observed, then purging and sampling will proceed.

Purge Testing: To ensure that stagnant air will be adequately purged from the sampling system prior to sampling, an initial purge volume versus concentration test will be conducted at the beginning of the soil gas sampling activities to evaluate the appropriate purge volume to use during this characterization per the DTSC/LARWQCB Advisory. The test will be conducted by collecting air samples into a lung box equipped with a 1 liter Tedlar[®] bag after applying 1, 3, and 7 purge volumes. The exact purge volume will be determined based on the field equipment used. One purge volume is the estimated volume of sample tubing and annular space around the probe tip. The Tedlar[®] bag will be screened for methane, oxygen, carbon dioxide, and hydrogen sulfide using a four gas meter and VOCs using a PID and FID. The Tedlar[®] bag sample will also be screened for helium using a direct-reading helium meter to measure background or ambient concentrations prior to conducting tracer leak tests. The purge volume yielding the highest concentrations will then be used for subsequent samples.

Tracer Leak Test: A tracer leak test will be performed during purging and/or sampling to verify that a proper surface connection is achieved. Helium will be used as the tracer compound for this leak test unless helium is detected in the soil vapor screened during purging. The tracer gas will be released around the surface seal at the ground surface prior to sample collection. If isopropanol or difluoroethane are used, then the tracer will be analyzed by the analytical laboratory. If helium is used as the tracer compound, then a soil vapor sample will be collected into a Tedlar[®] bag following the Summa canister sampling and field screened for helium.

Soil Vapor Sampling

The soil vapor probe installation and sampling will be conducted following California Department of Toxic Substances (DTSC)-approved methods, in general accordance with the guidance documents, *Interim Final – Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air* (DTSC, 2005) and *Assessment of Vapor Intrusion in Homes Near the Raymark Superfund Site Using Basement and Sub-Slab Air Samples* (USEPA, 2006). During probe installation, field observations for the presence of hydrogen sulfide (i.e., odor) will be made and recorded. If significant concentrations of hydrogen sulfide are measured in the field, samples for laboratory analysis will be taken using black Tedlar[®] bags or glass-lined Summa canisters.



Dr. Teklewold Ayalew
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November 10, 2009
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Once the probe is purged, a vapor sample will be collected in a Summa canister equipped with an inline flow regulator placed between the vapor probe and Summa canister. The Summa canisters will be decontaminated and individually certified clean by the laboratory prior to use during vapor sampling events. To minimize the potential for cross-contamination between sampling locations, new or cleaned sample tubing and fittings will be used for each sample. Prior to sampling, each Summa canister will be inspected to ensure it is in good condition, with the pressure gauge and dust cap attached to the canister and the pressure gauge indicating a vacuum inside the canister between -28 and -30 inches of mercury (Hg). The initial vacuum reading from the canister will then be recorded on the chain-of-custody. To fill the canister, the brass dust cap will be removed from the top of the canister and a flow controller assembly attached to the canister, in place of the dust cap. After attaching the inlet of the canister to the sampling tubing, the canister valve will be turned counter-clockwise one full turn. During the filling process, the pressure gauge will be monitored periodically to ensure steady flow into the canister. Sampling is deemed completed when the vacuum in the canister is between -5 and 0 inches Hg. The Summa canister valve is then closed and the final vacuum reading on the canister gauge recorded on the chain-of-custody. The brass dust cap will then be placed on top of the canister in place of the flow controller. Each canister will be labeled with the project name, sample ID, sampling date and time, as well as the initials of the sampler.

Soil Vapor Sample Analysis

Soil vapor samples will be submitted to the offsite laboratory and analyzed for VOCs by USEPA Method TO-15 and fixed gases (including methane) by Method ASTM D-1946. The TO-15 analyte list and reporting limits are provided in Attachment I.

Soil Vapor Sample Quality Assurance/Quality Control Methods

Duplicate vapor samples will be collected at a frequency of 10%. The duplicate samples will be analyzed for VOCs by USEPA Method TO-15. As recommended in the DTSC soil gas advisory, a trip blank consisting of an empty Summa canister, will be prepared by the laboratory for each shipment of samples. The trip blank will be submitted to the laboratory with each set of samples collected and analyzed for VOCs by USEPA Method TO-15 and fixed gases by ASTM D-1946.

Following laboratory analyses and reporting, the laboratory reports will be reviewed for completeness. A general assessment of reported data includes the following details:

- ◆ Holding times;
- ◆ Method and trip blank results;
- ◆ Field duplicate sample results;
- ◆ Laboratory control sample (LCS) and laboratory control sample duplicate (LCSD) results;



Dr. Teklewold Ayalew
Regional Water Quality Control Board, Los Angeles Region
November 10, 2009
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- ♦ Surrogate compound results; and
- ♦ Elevated reporting limits.

Exploration-Derived Waste Management Procedures

Exploration-derived waste will be temporarily stored onsite in 55-gallon drums at a secure location designated by LAUSD. Waste will be profiled and disposed of at an appropriately permitted facility.

Reporting

Following receipt and evaluation of laboratory test results, a report will be prepared and submitted to the LARWQCB and LAUSD. The report will describe the sampling methods and analytical results. A decision on the appropriate follow-up actions will be made within 30 days of receipt and validation of the analytical results from the laboratory. It is expected that the initial report will be completed approximately 3 to 4 weeks after receipt of the data from the laboratory. The report will be signed and stamped by a California registered Professional Geologist or Professional Civil Engineer.

References

- California DTSC, 2005. Interim Final – Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air. 2005.
- California LARWQCB/DTSC, 2003. Advisory – Active Soil Gas Investigations. January 28
- URS, 2008. Phase I Environmental Site Assessment Report. Former Kast Property, Carson, California. July 14
- URS, 2009. Final Phase I Site Characterization Report. Former Kast Property, Carson, California. October 15



Dr. Teklewold Ayalew
Regional Water Quality Control Board, Los Angeles Region
November 10, 2009
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Please feel free to contact me at your convenience if you have any questions.

Very truly yours,
URS Corporation

Allen E. Blodgett

Allen E. Blodgett, P.E.
Principal Engineer



Attachments: Figures 1, 2 and 3

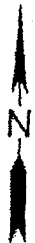
cc: Mr. Sam Unger – LARWQCB
Dr. Arthur Heath – LARWQCB
Mr. Adnan Siddiqui – LARWQCB



0 666 1,332
 SCALE IN FEET
 1" = 666'

Explanation

- Proposed Soil and Soil Vapor Sample Locations (~100-foot grid)



Source: Environmental Data Resources
 Historical Aerial Photograph - 2002

PROPOSED SOIL AND SOIL VAPOR SAMPLE LOCATIONS - WILMINGTON MIDDLE SCHOOL

Project No. 49194314

Date OCTOBER 2009

Project: Former KAST Property

Figure 2

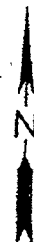
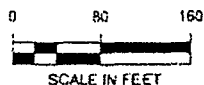
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URS



Explanation

- Proposed Soil and Soil Vapor Sample Locations (~100-foot grid)
 - Soil samples to be collected at 0.5, 5.0 and 10 feet below ground surface (bgs)
 - Soil vapor samples to be collected at 5.0 feet bgs
- ⊙ Sample location with an additional Soil Vapor Probe at 15 feet bgs



Source: Environmental Data Resources
Historical Aerial Photograph 2002

PROPOSED SOIL AND SOIL VAPOR SAMPLE LOCATIONS - WILMINGTON MIDDLE SCHOOL

Project No.: 49194314

Date: OCTOBER 2009

Project: Former KAST Property

Figure 3

EXHIBIT E



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

November 24, 2009

Mr. Edward E. Freed
Shell Oil Products US
Environmental Services Company
20945 S Wilmington Ave.
Carson, CA 90810

APPROVAL OF WORK PLAN FOR OFFSITE SHALLOW SOIL AND SOIL VAPOR CHARACTERIZATION AT THE WILMINGTON MIDDLE SCHOOL RELATED TO THE FORMER SHELL OIL COMPANY KAST PROPERTY TANK FARM LOCATED SOUTH EAST OF THE INTERSECTION OF MARBELLA AVENUE AND EAST 244TH STREET, CARSON, CALIFORNIA PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER (SITE CLEANUP NO. 1230, SITE ID 2040330)

Dear Mr. Freed:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the state regulatory agency responsible for protecting water quality in Los Angeles and Ventura Counties. To accomplish this, the Regional Board issues investigative orders and requirements for submission of technical reports authorized by the Porter-Cologne Water Quality Control Act.

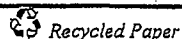
The Regional Board staff has received and completed review of the document titled Work Plan for Offsite Shallow Soil and Soil Vapor Characterization at the Wilmington Middle School Related to the Former Kast Property, Carson, California (work plan) dated November 10, 2009 and prepared by your consultant URS Corporation (URS) on behalf of the Shell Oil Products US (Shell). The findings of the Phase I Site Characterization at the former Shell Oil Company Kast Property Tank Farm (KPTF) indicate the presence of methane, hydrogen sulfide, benzene and other volatile organic compounds (VOCs) in shallow soil gas at concentrations exceeding the screening levels for protection of human health across the site. The Regional Board was concerned that the contamination plume may have extended offsite beneath the school property and directed Shell to submit a work plan to investigate offsite plume migration. This work plan is prepared in response to the Regional Board letter dated October 13, 2009. The Regional Board has also received and reviewed comments dated November 19, 2009 prepared by the Office of Environmental Health and Safety of the Los Angeles Unified School District (LAUSD). In this letter, the LAUSD concerns are addressed as appropriate. This letter briefly describes the proposed work and provides the approval to implement the work plan.

PROPOSED WORK

The work plan is focused on the northeast portion of the Wilmington Middle School property that is in close proximity to the southern footprint of the former Kast Property Tank Farm. The proposed activities are as follows:

1. Collecting multi-depth (0.5, 5, and 10 feet below ground surface (bgs)) soil samples from 20 hand auger boring locations;
2. Soil vapor sampling at each of the soil boring locations by installing temporary soil vapor probes and screened at 5 feet bgs; nine of which will have an additional vapor probe installed at 15 feet bgs;

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EXHIBIT **E**

3. Field monitoring of VOCs during drilling using photo ionization detectors (PID), and methane by Landtec GEM-2000, and hydrogen sulfide by Jerome 631-X analyzer;
4. The soil samples will be analyzed for total petroleum hydrocarbons (TPH) by EPA Method 8015M, VOCs by EPA Method 8260B/5035, Semi volatile organic compounds (SVOCs) by EPA Method 8270 SIM, and metals by EPA Methods 6010B/7000.
5. Soil vapor samples will be analyzed for VOCs by EPA Method TO-15 and fixed gases including methane by Method ASTM D-1946.

REQUIREMENT

Based on the review of the proposed work plan and documents in our file, you are authorized to implement the work plan with the following conditions:

1. You are required to conduct additional soil and soil vapor sampling along East Lomita Boulevard to enable a complete assessment of the subsurface pathway between the footprints of the former Kast Property Tank Farm and the Wilmington Middle School site;
2. Step-out, step-in, and step-down soil and soil vapor sampling will be conducted based on the results of the analytical data;
3. You are required to notify the Regional Board at least 48-hours prior to conducting the shallow soil sampling.
4. Analytical data must be provided to Regional Board as soon as data is validated;
5. Upon completion of the fieldwork, you must submit a report documenting the results and conclusions of this investigation including recommendations for additional investigation, as necessary, for our review and approval by **January 15, 2010**; and
6. As presented in State Water Resources Control Board Resolution 92-49, professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. Moreover, the final report submitted to this Regional Board must be reviewed, signed and stamped by a California registered geologist, or a California registered civil engineer with at least five years hydrogeologic experience. Furthermore, the California Business and Professions Code Sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. Therefore, all future work must be performed by or under the direction of a registered geologist or registered civil engineer. A statement is required in the final report that the registered professional in responsible charge actually supervised or personally conducted all the work associated with the work plan and final report.

Pursuant to Section 13267(b) of the California Water Code (CWC), you are hereby directed to submit the technical report for additional site assessment to this Regional Board by **January 15, 2010**. Furthermore, pursuant to Section 13268 (b)(1) of the CWC, failure to submit the required technical report may result in the imposition of



Mr. Edward E. Freed
Shell Oil Products US

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November 24, 2009

civil liability penalties by the Regional Board of up to \$1,000 per day for each day the report is not received after **January 15, 2010**, due date and without further warning.

The State Water Resources Control Board (State Water Board) adopted regulations requiring the electronic submittals of information over the Internet using the State Water Board GeoTracker database. You are required not only to submit hard copy reports required in this Order but also to comply by uploading all reports and correspondence prepared to date and additional required data formats to the GeoTracker system. Information about GeoTracker submittals, including links to text of the governing regulations, can be found on the Internet at the following link:

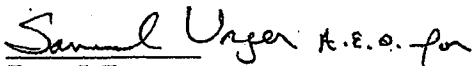
http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

All technical reports are required to be submitted under the California Water Code (CWC) section 13267 Order. Please note that effective immediately, the Regional Board requires you to include a perjury statement in all reports submitted under the 13267 orders. The perjury statement shall be signed by a senior authorized by Shell Oil Products US representative (and not by consultant). The statement shall be in the following format:

"I, [NAME], do hereby declare, under penalty of perjury under the laws of State of California, that I am [JOB TITLE] for Shell Oil Company that I am authorized to attest to the veracity of the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on DATE."

If you have any questions, please contact the project manager, Dr. Teklewold Ayalew at (213) 576-6743 or tayalew@waterboards.ca.gov, or Mr. Adnan Siddiqui at (213) 576-6812 or the Site Cleanup Program Manager, Dr. Arthur Heath at (213) 576-6725.

Sincerely,


Tracy J. Egoscue
Executive Officer

Cc: Laura Richardson, Honorable Congresswoman, US House of Representatives,
California's 37th District
Mr. Mark Ridley-Thomas, Supervisor, Second District County of Los Angeles
Jenny Oropeza, Senator, 28th Senate District
Warren T. Furtani, Assembly member, 55th Assembly District
Jim Dear, Mayor of Carson
Sheri Repp-Loadsman, City of Carson
Ky Truong, City of Carson
Jennifer Fordyce, Office of Chief Counsel, State Water Resources Control Board
Jerome G. Groomes, Carson's City Manager

See Next Page

California Environmental Protection Agency



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. Edward E. Freed
Shell Oil Products US

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November 24, 2009

James Carlisle, Office of Environmental Health Hazard Assessment
Robert Romero, Department of Toxic Substances Control
Wendy W. Arano, Department of Toxic Substances Control
Bill Jones, Los Angeles County Fire Department
Barry Nugent, Los Angeles County Fire Department
Shahin Nourishad, Los Angeles County Fire Department
Miguel Garcia, Los Angeles County Fire Department
Alfonso Medina, Los Angeles County Department of Health
Cole Landowski, Los Angeles County Department of Health
Angelo Bellomo, Los Angeles County Department of Health
Karen A. Lyons, Shell Oil Products US
Alison Abbott Chassin, Shell Oil Products US
Hal Dash, Cerrell Associates
Allen E. Blodgett, URS Corporation
Chris Osterberg, URS Corporation
Michelle Vega, Edelman
Robert Ettinger, Geosyntec
Barbara Post, Carousel Homes Homeowners Association

California Environmental Protection Agency



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

EXHIBIT F



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

December 17, 2009

Mr. Edward E. Freed
Shell Oil Products US
Environmental Services Company
20945 S Wilmington Ave.
Carson, CA 90810

TIME EXTENSION APPROVAL FOR SUBMITTAL OF TECHNICAL REPORT FOR THE CHARACTERIZATION AT THE WILMINGTON MIDDLE SCHOOL PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER, FORMER SHELL OIL COMPANY KAST PROPERTY TANK FARM LOCATED SOUTH EAST OF THE INTERSECTION OF MARBELLA AVENUE AND EAST 244TH STREET, CARSON, CALIFORNIA PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER (SITE CLEANUP NO. 1230, SITE ID 2040330)

Dear Mr. Freed:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the state regulatory agency responsible for protecting water quality in Los Angeles and Ventura Counties. To accomplish this, the Regional Board issues investigative orders and requirements for submission of technical reports authorized by the Porter-Cologne Water Quality Control Act.

In accordance with a California Water Code (CWC) Section 13267 Order dated November 24, 2009 (Order), you were required to submit by January 15, 2010 to this Regional Board a technical report containing the results and conclusions of the offsite shallow soil and soil vapor characterization at the Wilmington Middle School related to the Former Kast Property, Carson, California. Regional Board has received a letter dated December 14, 2009, prepared by URS Corporation (URS) on behalf of the Shell Oil Products US (Shell) requesting a time extension in the due date until February 15, 2010 for submitting the technical report to the Regional Board.

The request letter indicated that the delays in submitting the report is due to securing access agreements with Los Angeles Unified School District (LAUSD) and with City of Carson prior to conducting the fieldwork. Regional Board staff considers your request for the time extension to be reasonable. You are now directed to submit the technical report to the Regional Board by **February 15, 2010**.

Pursuant to Section 13267 of the California Water Code (CWC), you are required to submit the technical report by February 15, 2010. The due date extension is an amendment to the existing CWC Section 13267 Order issued by this Regional Board on November 24, 2009. Pursuant to Section 13268 of the CWC, failure to submit the required technical report by the specified due date may result in civil liability administratively imposed by the Regional Board in an amount up to one thousand dollars (\$1,000) for each day the technical report is not received.

All technical reports are required to be submitted under the California Water Code (CWC) section 13267 Order. Please note that effective immediately, the Regional Board requires you to include a perjury statement in all reports submitted under the 13267 orders. The perjury statement shall be signed by a senior authorized by Shell Oil Products US representative (and not by consultant). The statement shall be in the following format:

California Environmental Protection Agency

EXHIBIT **F**



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. Edward E. Freed
Shell Oil Products US

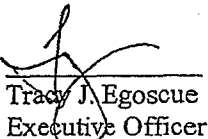
- 2 -

December 17, 2009

" I, [NAME], do hereby declare, under penalty of perjury under the laws of State of California, that I am [JOB TITLE] for Shell Oil Company that I am authorized to attest to the veracity of the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on DATE."

If you have any questions, please contact the project manager, Dr. Teklewold Ayalew at (213) 576-6743 or tayalew@waterboards.ca.gov, or Mr. Adnan Siddiqui at (213) 576-6812 or the Site Cleanup Program Manager, Dr. Arthur Heath at (213) 576-6725.

Sincerely,


Tracy J. Egoscue
Executive Officer

Cc: Laura Richardson, Honorable Congresswoman, US House of Representatives, California's 37th District
Mr. Mark Ridley-Thomas, Supervisor, Second District County of Los Angeles
Jenny Oropeza, Senator, 28th Senate District
Warren T. Furtani, Assembly member, 55th Assembly District
Jim Dear, Mayor of Carson
Sheri Repp-Loadsman, City of Carson
Ky Truong, City of Carson
Jennifer Fordyce, Office of Chief Counsel, State Water Resources Control Board
Thomas L. Watson, LAUSD
Patrick Schanen, LAUSD
Jerome G. Groomes, Carson's City Manager
James Carlisle, Office of Environmental Health Hazard Assessment
Robert Romero, Department of Toxic Substances Control
Wendy W. Arano, Department of Toxic Substances Control
Bill Jones, Los Angeles County Fire Department
Barry Nugent, Los Angeles County Fire Department
Shahin Nourishad, Los Angeles County Fire Department
Miguel Garcia, Los Angeles County Fire Department
Alfonso Medina, Los Angeles County Department of Health
Cole Landowski, Los Angeles County Department of Health
Angelo Bellomo, Los Angeles County Department of Health
Karen A. Lyons, Shell Oil Products US
Alison Abbott Chassin, Shell Oil Products US
Hal Dash, Cerrell Associates
Allen E. Blodgett, URS Corporation
Chris Osterberg, URS Corporation
Michelle Vega, Edelman
Robert Ettinger, Geosyntec
Barbara Post, Carousel Homes Homeowners Association

California Environmental Protection Agency



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

EXHIBIT G

31 Sites



Go

<u>SITE NAME</u>	<u>GLOBAL ID</u>	<u>CLEANUP STATUS</u>	<u>ADDRESS</u>	<u>CITY</u>
<u>ANTHONY BOOSALIS</u>	T0603776908	OPEN - SITE ASSESSMENT	9511 S AVALON BLVD	LOS ANGELES
<u>ARCO PRODUCTS #09548</u>	2424		23900 AVALON BLVD # B	CARSON
<u>ARCO PRODUCTS CRUDE TERMINAL</u>	1641		24696 WILMINGTON AVE	CARSON
<u>BLUE JAY LAND ENTERPRISES INC</u>	T0603703002	OPEN - REMEDIATION	319 LOMITA BLVD E	CARSON
<u>BLUE JAY LAND ENTERPRISES INC</u>	T0603704556	OPEN - SITE ASSESSMENT	259 LOMITA BLVD E	CARSON
<u>BLUE JAY LAND ENTERPRISES INC</u>	T0603702987	OPEN - REMEDIATION	241 LOMITA BLVD E	CARSON
<u>DESIGNS IN PIPE FACILITY</u>	T0603795104	OPEN - SITE ASSESSMENT	6930 S AVALON BLVD	LOS ANGELES
<u>ECOLOGY AUTO</u>	7739		1600 EUBANK AVE	WILMINGTON
<u>ECOLOGY AUTO PARTS</u>	T0603748234	OPEN - REFERRED	1000 LOMITA BLVD E	WILMINGTON
<u>FLETCHER OIL REFINING CO</u>	SL373422445	OPEN - REMEDIATION	24721 S. MAIN ST	CARSON
<u>FOMER GASOLINE STATION</u>	T0603726504	OPEN - SITE ASSESSMENT	7402 S AVALON BLVD	LOS ANGELES

Go!

EXHIBIT G

STATE WATER RESOURCES CONTROL BOARD
GEOTRACKER

BLUE JAY LAND ENTERPRISES INC (T0603703002) - (MAP)

319 LOMITA BLVD E
CARSON, CA 90745
LOS ANGELES COUNTY
CLEANUP PROGRAM SITE

CLEANUP OVERSIGHT AGENCIES
LOS ANGELES RWQCB (REGION 4) (LEAD) - CASE #: I-04792
CASEWORKER: DISC
LOS ANGELES COUNTY
CASEWORKER: JOHN AWUJO

Regulatory Profile

CLEANUP STATUS

OPEN - REMEDIATION AS OF 12/7/1995

POTENTIAL CONTAMINANTS OF CONCERN

GASOLINE

POTENTIAL MEDIA AFFECTED

AQUIFER USED FOR DRINKING WATER SUPPLY

FILE LOCATION

Site History

No site history available

Cleanup Status History

<u>DATE</u>	<u>STATUS</u>
12/7/1995	Open - Remediation
4/24/1995	Open - Site Assessment
10/4/1991	Open - Site Assessment
10/4/1991	Open - Case Begin Date

Regulatory Activities

<u>ACTION TYPE</u>	<u>ACTION DATE</u>	<u>ACTION</u>
LEAK ACTION	10/4/1991	Leak Reported
LEAK ACTION	10/4/1991	Leak Discovery

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STATE WATER RESOURCES CONTROL BOARD
GEOTRACKER

BLUE JAY LAND ENTERPRISES INC (T0603704556) - (MAP)

259 LOMITA BLVD E
CARSON, CA 90745
LOS ANGELES COUNTY
CLEANUP PROGRAM SITE

CLEANUP OVERSIGHT AGENCIES
LOS ANGELES RWQCB (REGION 4) (LEAD) - CASE #: R-01406
CASEWORKER: DTSC
LOS ANGELES COUNTY
CASEWORKER: JOHN AWUJO

Regulatory Profile

CLEANUP STATUS

OPEN - SITE ASSESSMENT AS OF 12/12/1995

POTENTIAL CONTAMINANTS OF CONCERN

GASOLINE

POTENTIAL MEDIA AFFECTED

AQUIFER USED FOR DRINKING WATER SUPPLY

FILE LOCATION

Site History

No site history available

Cleanup Status History

<u>DATE</u>	<u>STATUS</u>
12/12/1995	Open - Site Assessment
4/24/1995	Open - Site Assessment
10/4/1991	Open - Site Assessment
10/4/1991	Open - Case Begin Date

Regulatory Activities

<u>ACTION TYPE</u>	<u>ACTION DATE</u>	<u>ACTION</u>
LEAK ACTION	10/4/1991	Leak Reported
LEAK ACTION	10/4/1991	Leak Discovery

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STATE WATER RESOURCES CONTROL BOARD
GEOTRACKER

BLUE JAY LAND ENTERPRISES INC (T0603702987) - (MAP)

241 LOMITA BLVD E
CARSON, CA 90745
LOS ANGELES COUNTY
CLEANUP PROGRAM SITE

CLEANUP OVERSIGHT AGENCIES
LOS ANGELES RWQCB (REGION 4) (LEAD) - CASE #: I-04553
CASEWORKER: DTSC
LOS ANGELES COUNTY
CASEWORKER: JOHN AWUJO

Regulatory Profile

CLEANUP STATUS

OPEN - REMEDIATION AS OF 12/7/1995

POTENTIAL CONTAMINANTS OF CONCERN

GASOLINE

POTENTIAL MEDIA AFFECTED

AQUIFER USED FOR DRINKING WATER SUPPLY

FILE LOCATION

Site History

No site history available

Cleanup Status History

<u>DATE</u>	<u>STATUS</u>
12/7/1995	Open - Remediation
4/24/1995	Open - Site Assessment
10/4/1991	Open - Site Assessment
10/4/1991	Open - Case Begin Date

Regulatory Activities

<u>ACTION TYPE</u>	<u>ACTION DATE</u>	<u>ACTION</u>
LEAK ACTION	10/4/1991	Leak Reported
LEAK ACTION	10/4/1991	Leak Discovery

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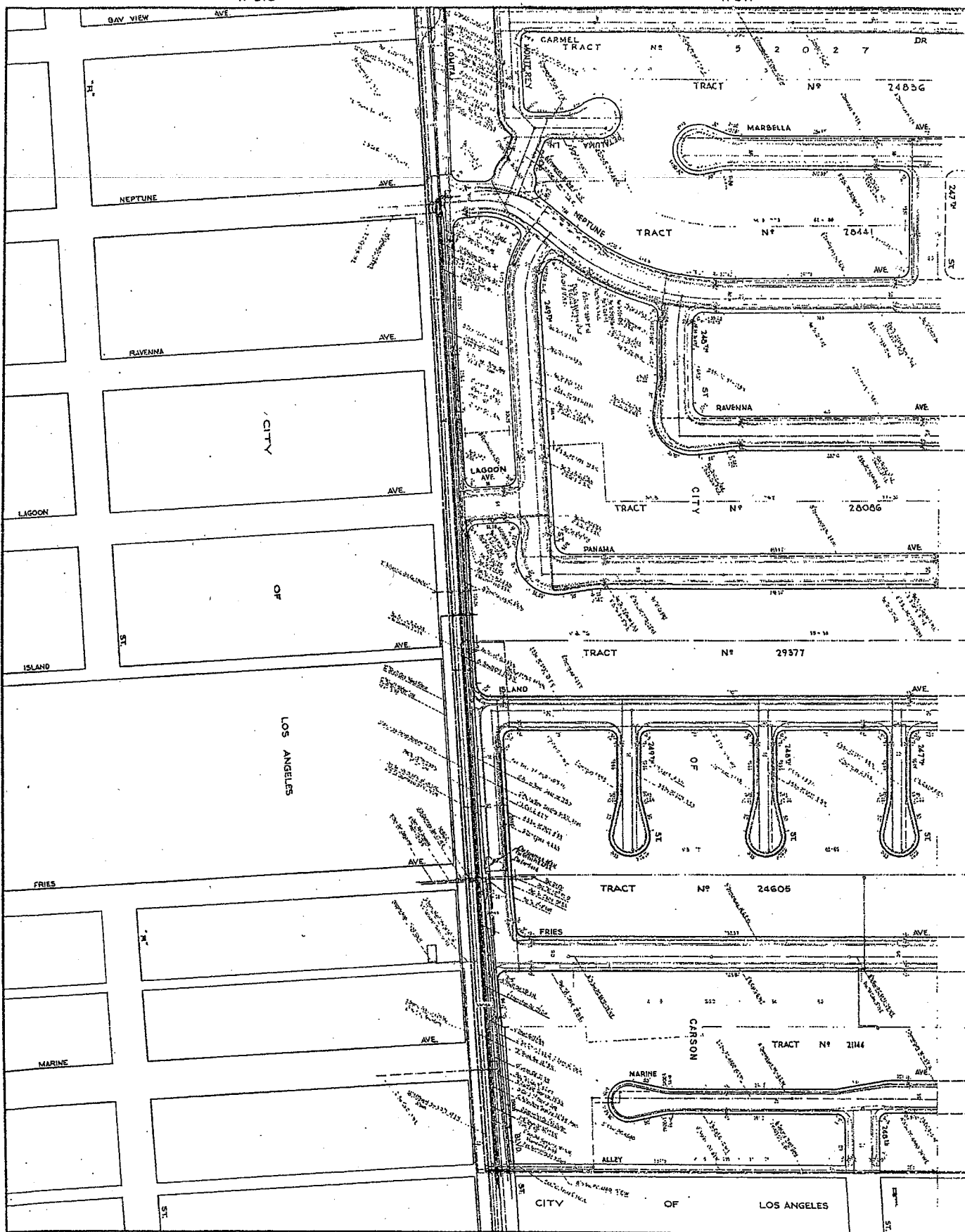
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EXHIBIT H



W-319

W-311



W-313

EXHIBIT H

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within entitled action. My business address is 1055 W. 7th Street, Suite 250, Los Angeles, California 90017.

On December 23, 2009, I served the within document(s) described below as:

PETITION FOR REVIEW AND REQUEST FOR HEARING

on the parties to this action who are listed below.

(X) BY HAND (STATE COURT): By hand-delivering a true copy thereof in sealed envelopes to the offices of the parties listed below.


() BY HAND (FEDERAL COURT): By placing a true copy thereof in sealed envelopes and causing such envelopes to be hand-delivered to the offices of the parties listed on the attached Service List.

**State Water Resources Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
Tel.: (213) 576-6600
Fax: (213) 576-6640**

(X) STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own personal knowledge, and that I executed this document on **December 23, 2009**, at Los Angeles, California.

STEVE KAISER

[Print Name]



APEX MESSENGER

1 CALDWELL LESLIE & PROCTOR, PC
MICHAEL R. LESLIE, State Bar No. 126820
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3 zaft@caldwell-leslie.com
1000 Wilshire Blvd., Suite 600
4 Los Angeles, California 90017
Telephone: (213) 629-9040
5 Facsimile: (213) 629-9022

6 Attorneys for Petitioner EQUILON ENTERPRISES
LLC dba SHELL OIL PRODUCTS US
7

8 **STATE WATER RESOURCES CONTROL BOARD**
9 **FOR THE STATE OF CALIFORNIA**
10

11 In the Matter of the Petition of

Case No.

12 EQUILON ENTERPRISES LLC dba SHELL
OIL PRODUCTS US

REQUEST FOR STAY

13 Request for Technical Report, California
14 Regional Water Quality Control Board, Los
Angeles Region

15 California Water Code § 13267
16

17 In accordance with Water Code section 13321(a) and section 2053 of Title 23 of the
18 California Code of Regulations, Equilon Enterprises LLC dba Shell Oil Products US ("Equilon")
19 hereby requests a stay of the additional requirement contained in the Approval of Work Plan for
20 Offsite Shallow Soil and Soil Vapor Characterization at the Wilmington Middle School issued by
21 the Executive Officer of the California Regional Water Quality Control Board, Los Angeles
22 Region ("Regional Board") on November 24, 2009. This Approval of Work Plan and the
23 requirements contained therein were issued pursuant to Section 13267 of the California Water
24 Code, and shall be referred to hereinafter as "the 13267 Letter." A copy of the 13267 Letter is
25 attached as Exhibit E to the Petition for Review and Request for Hearing ("Petition") filed
26 herewith.

27 The grounds for stay are set forth below and in the Petition and supporting Declaration of
28 Edward E. Freed filed herewith and incorporated herein by reference. Because of the imminent

CALDWELL
LESLIE &
PROCTOR

1 deadline contained in the 13267 Letter, Equilon requests that the State Board issue the requested
2 stay and conduct a hearing on this matter as soon as possible, or, in the alternative that the State
3 Board issue the stay and hold Equilon's Petition in abeyance pursuant to California Code of
4 Regulations § 2020.5(d) to permit the Regional Board and Equilon to engage in discussions in an
5 attempt to informally resolve this matter.

6 **I. INTRODUCTION**

7 In its concurrent Petition for Review, Equilon explains why the requirement that Equilon
8 conduct environmental sampling along East Lomita Boulevard contained in the 13267 Letter
9 exceeds the Regional Board's authority and should be rescinded. While this Petition is under
10 review by the State Water Board, however, Equilon still faces a February 15, 2010 deadline to
11 submit a report containing the results and conclusions from this sampling or face the possibility
12 of administrative sanctions. For this reason, Equilon respectfully requests that the State Water
13 Board stay the 13267 Letter until it has an opportunity to address Equilon's Petition on the
14 merits.

15 As explained below, Equilon satisfies the three requirements for a stay set forth in 23
16 California Code of Regulations § 2053. First, without a stay, Equilon either will have to
17 undertake extraordinary measures in the next three weeks to attempt to comply with the
18 requirement that it conduct sampling along East Lomita Boulevard as best it can—despite the
19 technical and logistical infeasibility of conducting this sampling due to unrelated construction
20 and environmental activities and the presence of numerous underground utilities and pipelines—
21 or it will have to face the threat of administrative sanctions. Either way, Equilon will incur
22 substantial harm.

23 Second, there is no risk of substantial harm to the public or to water quality if the stay
24 were granted. This is because, even if additional testing along East Lomita Boulevard were
25 feasible, it would not provide any data regarding the environmental conditions at Wilmington
26 Middle School, which is the purpose of the Regional Board's original October 13, 2009 Request
27 for Work Plan and the 13267 Letter. The 13267 Letter already requires Equilon to complete
28 environmental testing at Wilmington Middle School and (pursuant to an extension agreed to by

1 the Regional Board) report the results of such testing by February 15, 2010. In fact, the Regional
2 Board recognizes that “step-out” activity—which normally would include sampling in the area
3 between the former Kast Property and Wilmington Middle School—should “be conducted based
4 on the results of the analytical data” Equilon obtains from its investigation of the Wilmington
5 Middle School. (Exh. E to Petition at 2.) Given that all other “step-out” sampling activity must
6 be based on the results from Equilon’s soil and soil vapor testing at Wilmington Middle School,
7 there is no rational basis for requiring Equilon to undertake sampling along East Lomita
8 Boulevard before those results are known.

9 Third, Equilon’s Petition raises substantial questions of law and fact, namely whether or
10 not the Regional Board exceeded its authority in including the additional sampling requirement
11 in the 13267 Letter, and whether this work is feasible given the presence extensive sewer main
12 construction, unrelated environmental activity in the area, and numerous utilities and pipelines
13 running beneath East Lomita Boulevard. For these reasons, a stay of the 13267 Letter is
14 warranted.

15 **II. BACKGROUND**

16 On October 13, 2009, the Regional Board requested that Equilon submit a work plan for
17 the characterization of shallow soil and soil vapor at Wilmington Middle School. The school is
18 located approximately 300 feet west of the southwestern boundary of the former Kast Property,
19 on the south side of Lomita Boulevard. As the Regional Board explained in its Request for Work
20 Plan, the purpose of the sampling at Wilmington Middle School is to determine whether any
21 environmental impacts at the former Kast Property had migrated to the school and, if so, whether
22 this created safety issues for the schoolchildren.

23 On November 19, 2009, Equilon submitted its Work Plan for Offsite Shallow Soil and
24 Soil Vapor Characterization at the Wilmington Middle School (“Work Plan”). (Exh. D to
25 Petition.) On November 24, 2009, the Regional Board issued the 13267 Letter in which it
26 approved the Work Plan and included additional requirements, including a requirement that
27 Equilon “conduct additional soil and soil vapor sampling along East Lomita Boulevard to enable
28 a complete assessment of the subsurface pathway between the footprints of the former Kast

1 Property Tank Farm and the Wilmington Middle School site.” (Exh. E at 2.) Pursuant to an
2 extension agreed to by the Regional Board, Equilon’s report containing the results and
3 conclusions of the investigation of the Wilmington Middle School—including the additional
4 sampling along East Lomita Boulevard—must be submitted by February 15, 2010.

5 Equilon has finalized an access agreement with LAUSD, and is testing at the Wilmington
6 Middle School, which will be completed during its winter recess. Equilon intends to submit a
7 report containing the results and conclusions of its investigation of the Wilmington Middle
8 School site by the February 15, 2010 deadline. However, for the reasons explained below, it will
9 be technically and logistically infeasible for Equilon to include results from sampling along East
10 Lomita Boulevard in that report. Because Equilon’s noncompliance with the Regional Board’s
11 directive in the 13267 Letter would subject Equilon to possible administrative sanctions under
12 Section 13268, Equilon prepared the concurrently filed Petition for Review requesting that the
13 State Water Board rescind the 13267 Letter and reissue it without the additional sampling
14 requirement.

15 **III. A STAY OF THE EFFECT OF THE 13267 LETTER IS WARRANTED IN THIS**
16 **CASE**

17 Under Section 2053 of the State Board’s regulations (23 Cal. Code Regs. § 2053), a stay
18 of the effect of an order shall be granted if Equilon shows:

- 19 (1) substantial harm to petitioner or to the public interest if a stay is not granted;
20 (2) a lack of substantial harm to other interested parties and to the public if a stay is
21 granted; and
22 (3) substantial questions of fact or law regarding the disputed action exist.

23 Here, the requirements for issuance of a stay are clearly met.

24 **A. *Equilon Will Suffer Substantial Harm If a Stay Is Not Granted***

25 Without the requested stay, Equilon will be put in a position where it will have to comply
26 with the additional sampling requirement contained in the 13267 Letter or face the possibility of
27 administrative sanctions. Equilon thus is required to submit a report to the Regional Board by
28 February 15, 2010 containing results and conclusions from sampling, which likely will not be

1 permitted by the City of Carson, will interfere with already existing construction and
2 environmental activity in the area, and will contradict the Regional Board's own requirement that
3 such "step-out" testing be based on analytical results which are due as part of the same February
4 15, 2010 report. The additional sampling in East Lomita Boulevard—even if it were feasible—
5 would be very complicated and require additional time, and would be unlikely to produce useful
6 data. (Declaration of Eugene Freed (attached to the Petition for Review and incorporated herein
7 by reference), ¶¶ 21-22.) Moreover, because Equilon does not believe it can in good faith
8 conduct the additional sampling before the February 15, 2010 deadline contained in the 13267
9 Letter, it faces the possibility of administrative sanctions, despite the fact that it intends to submit
10 a report complying with the other requirements contained in the 13267 Letter. (*Id.*, ¶ 18.)

11 ***B. The Public Will Not Be Substantially Harmed If a Stay is Granted***

12 The requested stay will not pose any risk of substantial harm to the public or water
13 quality. Regardless of the outcome of its Petition, Equilon intends to conduct the investigatory
14 activity which it does not challenge in its Petition—namely, the soil and soil vapor testing at
15 Wilmington Middle School as required by the 13267 Letter and as outlined in Equilon's
16 November 10, 2009 Work Plan. It is this work—and not the sampling along East Lomita
17 Boulevard—that will provide data and form the basis for an analysis of whether environmental
18 conditions at the school pose any potential public health or safety risks. Thus, the requested stay
19 would not delay the most urgent investigatory action taken by Equilon, but would only relieve
20 Equilon of the burden of having to comply with that portion of the 13267 Letter that Equilon
21 challenges in its Petition.

22 Moreover, even if it were technically and logistically feasible for Equilon to conduct
23 sampling in East Lomita Boulevard, doing so creates its own risks, including environmental
24 harm. Such sampling might interfere with the Los Angeles County Sanitation District's ongoing
25 sewer main construction work and could create safety or liability issues. (Petition at 16.)
26 Moreover, the presence of environmental wells in the same portion of East Lomita Boulevard
27 where Equilon has been asked to conduct soil and soil vapor testing creates the risk that the

1 additional sampling required by the 13267 Letter would interfere with ongoing environmental
2 activity, or vice versa. (*Id.*, ¶¶ 17-19.)

3 ***C. The Petition Raises Substantial Questions of Law and Fact***

4 Equilon's Petition raises substantial questions regarding the Regional Board's legal
5 authority to require Equilon to conduct the additional sampling, where the burden such sampling
6 imposes on Equilon far exceeds any potential need for it or benefit it may produce. As explained
7 in the Petition, the 13267 Letter violates the requirement that the Regional Board only order
8 completion of a technical report where "[t]he burden, including costs, of these reports shall bear a
9 reasonable relationship to the need for the report and the benefits to be obtained from the
10 reports." Section 13267(b). The requirement for sampling along East Lomita Boulevard is
11 logistically infeasible, is unlikely to receive permitting approval by the City of Carson, could
12 interfere with construction and environmental activity, and directly contradicts the Regional
13 Board's other requirement that such "step-out" testing be based on analytical results which are
14 not due until January 15, 2010. (Petition, ¶¶ 7-9, 30-31.) Therefore, the benefit from Equilon
15 conducting the sampling (if it is even feasible) is minimal, while the burden—both in attempting
16 to comply, and in operating in the face of potential administrative sanctions—is substantial. (*Id.*)

17 Equilon's Petition also poses the fundamental question of whether the Regional Board
18 has authority under Section 13267 to require Equilon to conduct sampling at a specific location,
19 despite Section 13360's prohibition against the Regional Board "specify[ing] the design,
20 location, type of construction, or particular manner in which compliance may be had with that
21 requirement, order, or decree." *See also* State Water Board Resolution No. 92-49 ("Water Code
22 § 13360 prohibits the Regional Water Boards from specifying, but not suggesting, methods that a
23 discharger may use to achieve compliance with requirements or orders."). (Petition, ¶¶ 32-34.)

24 ///

25 ///

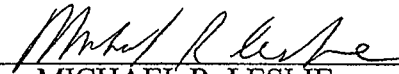
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1 IV. CONCLUSION

2 For the foregoing reasons, Equilon respectfully requests that the State Board stay the
3 13267 Letter pending a decision on the merits of the concurrently filed Petition for Review, or, in
4 the alternative, that the State Board issue the stay and hold Equilon's Petition in abeyance
5 pursuant to California Code of Regulations § 2020.5(d) to permit the Regional Board and
6 Equilon to engage in discussions in an attempt to informally resolve this matter. Equilon
7 requests that the State Board expeditiously issue a stay as soon as possible in order to avoid
8 irrecoverable investment of resources in advance of a decision on the merits.

9 DATED: December 23, 2009

CALDWELL LESLIE & PROCTOR, PC
MICHAEL R. LESLIE
DAVID ZAFT

11
12 By 
13 MICHAEL R. LESLIE
14 Attorneys for Petitioner EQUILON ENTERPRISES
15 LLC dba SHELL OIL PRODUCTS US
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28

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within entitled action. My business address is 1055 W. 7th Street, Suite 250, Los Angeles, California 90017.

On December 23, 2009, I served the within document(s) described below as:

REQUEST FOR STAY

on the parties to this action who are listed below.

(X) BY HAND (STATE COURT): By hand-delivering a true copy thereof in sealed envelopes to the offices of the parties listed below.

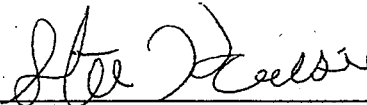
() BY HAND (FEDERAL COURT): By placing a true copy thereof in sealed envelopes and causing such envelopes to be hand-delivered to the offices of the parties listed on the attached Service List.

**State Water Resources Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
Tel.: (213) 576-6600
Fax: (213) 576-6640**

(X) STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own personal knowledge, and that I executed this document on **December 23, 2009**, at Los Angeles, California.

STEVE KAISER

[Print Name]



APEX MESSENGER